

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MARYLAND
BALTIMORE DIVISION

SHEIRA BROWN,	§	
Plaintiff,	§	
	§	
v.	§	Case No. 1:21-cv-00096-JRR
	§	
HARFORD BANK,	§	
Defendants.	§	

ORAL AND VIDEO DEPOSITION
OF BRIAN CLAFFEE
JANUARY 18, 2023

ORAL DEPOSITION OF BRIAN CLAFFEE, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on JANUARY 18, 2023, from 9:02 a.m. to 1:10 p.m., before VANESSA P. POMPA, CSR in and for the State of Texas, reported by stenographic method, Via Zoom video conference, San Antonio, Bexar County, Texas pursuant to the Federal Rules of Civil Procedure, and the provisions stated on the record or attached hereto, and pursuant to Texas Governor's Orders regarding the COVID-19 State of Disaster, Section 22.0035(b) of the Texas Government Code.

APPEARANCES

FOR PLAINTIFF:

Mr. Matthew McMullen (Via Zoom)
Ms. Leslie Tyroch
Hilliard Martinez Gonzales LLP
719 S. Shoreline Blvd.
Corpus Christi, Texas 78401

FOR DEFENDANT:

Mr. Scott H. Marder (Via Zoom)
Thomas & Libowitz, P.A.
25 S. Charles Street, Suite 2015
Baltimore, Maryland 21201

ALSO PRESENT:

Michael Allen, (Via Zoom)

Ryan Ligon, (Via Zoom)

Video Technician;

Brian Claffee, (Via Zoom)
the Witness; and

Vanessa P. Pompa, CSR (Via Zoom)

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20	NONE	
21	CERTIFIED QUESTIONS	
22	NONE	
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1 VIDEOGRAPHER: We are on the record. The
2 date is January 18th, 2023, the time is 9:02 a.m.
3 beginning the deposition of Brian Claffee.

4 Will the attorneys present please state
5 their appearances for this record.

6 MR. MC MULLEN: This is Matthew McMullen.
7 I'm one of the attorneys for plaintiff Sheira Brown.
8 And with me today in the deposition is attorney Leslie
9 Tyroch.

10 MR. MARDER: Scott Marder on behalf of
11 defendant Harford Bank.

12 VIDEOGRAPHER: And then will the court
13 reporter please swear in the witness.

14 BRIAN CLAFFEE,
15 having been first duly sworn, testified as follows:

16 EXAMINATION

17 By Mr. McMullen:

18 Q. So as I just indicated, Mr. Claffee, my name is
19 Matthew McMullen. I represent plaintiff Sheira Brown in
20 the lawsuit in which you're testifying. I -- Have you
21 had your deposition taken before?

22 A. Many years ago yes, once.

23 Q. Well, I'll refresh your recollection of the
24 rules, just give you the ground rules for today. The
25 court reporter is here to transcribe what's being said,

1 we're also on video, but a lot of these rules pertain to
2 the court reporter because we need her to be able to
3 make a transcript of the proceedings. In some ways this
4 is likely gonna be different than the last time you took
5 a -- you provided a deposition because we're doing this
6 remotely by Zoom, but in most material respects it won't
7 be too much different because the core of my
8 instructions here are gonna do -- are gonna have to do
9 with the transcript we're providing.

10 So the first rule I tell folks is we're
11 gonna try to avoid overtalk. And what I mean by that is
12 it's normal in a conversation for you to anticipate
13 where I'm going with the question and wanna get me the
14 answer before I'm finished. You want to avoid that so
15 that the court reporter can get everybody's full words
16 down and create a nice transcript for us. And so we
17 have an agreement, I assume, that we're gonna do our
18 best to avoid overtalk. Is that a yes?

19 A. Yes.

20 Q. And I may as we go on say things like is that a
21 yes if -- or -- or instruct you that the form of your
22 answer might offend the court reporter. When I do that
23 my intention is not to be a bully, it's just to make
24 sure we keep a nice transcript.

25 With that said, answers need to be

1 verbalized not -- no head shaking or -- it will be
2 picked up on video but we still want that transcript.
3 So I may say things like is that a yes, is that a no,
4 and just try to confirm.

5 In general, if you provide an answer I
6 have to assume that you understood the question. So I
7 generally ask that folks only testify to answers they
8 know. And so if you -- if you need a clarification on a
9 question, if you need me to restate something certainly
10 let me know, otherwise the -- we have an agreement, and
11 I think you'll agree, that you're only gonna provide
12 answers to things you know about. Can we agree on that?

13 A. Yes, sir.

14 Q. You understand that you're under oath today?

15 A. Yes, sir.

16 Q. And what's your understanding of the meaning of
17 being under oath?

18 A. Tell the truth.

19 Q. And I agree with that. I would only add tell
20 the whole truth. Can we agree to that?

21 A. Yes, sir.

22 MR. MARDER: Objection, form.

23 Q. On that point as far as overtalk goes, I will
24 generally allow for some lag time with these Zoom
25 depositions.

1 MC MULLEN: So, Scott, if there's a
2 situation where your objection comes out right after the
3 answer just -- just let's just get it all out on the
4 record and we can accommodate.

5 Q. (BY MC MULLEN) My last point for Mr. Claffee
6 -- and I'm sorry, it is Mr. Claffee, right?

7 A. That's fine, yes.

8 Q. Okay, thank you. If you need a break just let
9 me know. The only ground rule there being if you -- if
10 you have a question pending you need to answer the
11 question before we go take a break, but otherwise I'm
12 generally -- we generally try to do one break at the
13 hour mark. So it's 9 -- I believe 9 o'clock eastern
14 time or five after. So we'll shoot for a break around
15 10 -- 10 o'clock eastern, 9 o'clock my time if that
16 works for you. Okay?

17 A. Okay.

18 Q. Just let me know in -- in the interim if
19 there's another break time or what have you.
20 Mr. Claffee, how long have you worked for Harford Bank?

21 A. Just over three years.

22 Q. What is your current position with Harford
23 Bank?

24 A. I am the manager of retail banking services. I
25 oversee the branch network.

1 Q. How long have you been in that position with
2 the bank?

3 A. The same, just more than three years.

4 Q. Okay. You were hired on into that position?

5 A. That's correct.

6 Q. How long have you worked in the industry you're
7 currently working in?

8 A. In financial services about 32 years.

9 Q. What was the -- the employer -- the name of
10 your employer prior to Hartford Bank -- Harford Bank?

11 A. PNC Bank.

12 Q. Thank you. And what was your title at PNC
13 Bank?

14 A. My last position there was a senior client
15 adviser at PNC wealth management.

16 Q. How long did you work at that -- in that
17 position?

18 A. I was in that role just under two years.

19 Q. The employer immediately prior to PNC Bank?

20 A. It was still PNC Bank, just in a different
21 role.

22 Q. What was that role?

23 A. Several different roles. The one previous to
24 wealth management I was in universal branch
25 transformation, a program job for about two years.

1 Prior to that I was a regional manager overseeing 17
2 branches in the tri-county area in Harford and Cecil
3 county.

4 Q. And we'll get into your current duties. But I
5 understood your answer thus far to be I think it was 32
6 years working in the banking industry, is that right?

7 A. That's correct.

8 Q. And what is your education?

9 A. I have a bachelors degree.

10 Q. In what -- what is the bachelors --

11 A. It -- Sorry. Bachelors of science, a
12 concentration in consumer economics from the University
13 of Delaware.

14 Q. Thank you. Did you always know you wanted to
15 go into banking?

16 A. No, I did not.

17 Q. When did you learn that?

18 A. When I left the University of Delaware I was
19 working for a credit card company, a credit card bank
20 part time. And a full time job opened up and the rest
21 is history, as they say.

22 Q. Thank you. Other than your bachelors degree do
23 you have any other higher post secondary education in
24 the -- relative to the banking industry or any other
25 post secondary education?

1 A. I do not.

2 Q. Do you maintain any certificates along with
3 your college education?

4 A. I have an NMLS registration which allows you to
5 speak to customers about home lending.

6 Q. And what's an NMLS?

7 A. National -- National Mortgage Licensing.

8 Q. What's the significance of an NMLS certificate?

9 A. In order to speak to consumers regarding loans
10 where their home is the collateral, so that could be a
11 mortgage or a home equity line of credit. I need to
12 have an NMLS certification in order to take an
13 application.

14 Q. Thank you. The -- Your current role, does that
15 require you to have an NMLS certification?

16 A. It's not required. It's maintained from my
17 previous bank to this bank.

18 Q. Okay. Do -- Do you employ your training or --
19 or your certification in your current role?

20 MR. MARDER: Objection, form. Hey, Brian,
21 just pause for about a second just in case I need to
22 object, and that way our court reported can get down all
23 of the voices at one time.

24 THE WITNESS: Okay.

25 Q. And you can answer unless Mr. -- Mr. Marder

1 instructs you not to.

2 A. Can you repeat the question.

3 Q. Yes, sir. Do you -- Do you use the training
4 that you received to get your NMLS certification in your
5 current role?

6 A. Minimally.

7 Q. Okay. Of the 30 -- well, when did you obtain
8 your NMLS certification, just rough period of years?

9 A. I really don't recall. It's been a while.

10 Q. More than ten years?

11 A. I would say yes.

12 Q. You have 32 years of experience in banking. Do
13 you have a subject matter expertise in your opinion?

14 MR. MARDER: Objection, form.

15 A. No, my -- my range of experience in knowledge
16 in retail banking is pretty broad.

17 Q. Can you explain what it is -- what your
18 experience is. If I were to try to come up with a
19 category for your banking experience what would that
20 category be?

21 A. I would say management of a team performance
22 wise, execution against strategy, overall retail banking
23 from a branch network and branch operations perspective.

24 Q. What is retail banking?

25 A. The branch network for any size bank or credit

1 union.

2 Q. When you say branch network you're referring to
3 banking -- bank branches that customers can access
4 banking services, is that right?

5 A. Yes, sir.

6 Q. And so how many years -- when you say
7 experience in retail banking, how many years of your 32
8 years in banking dealt -- have dealt with retail
9 banking?

10 A. More than ten, probably closer to 15 total.

11 Q. You have ten to 15 years in retail banking
12 experience, is that right?

13 A. Yes, sir.

14 Q. And I think we identified that retail banking
15 involves how customers engage with banks at physical
16 banking locations, is that right?

17 MR. MARDER: Objection, form.

18 A. Yes.

19 MR. MC MULLEN: I'm sorry, what's the --
20 what's the objection?

21 MR. MARDER: Leading and misstating his
22 testimony.

23 MR. MC MULLEN: Isn't he an opposing
24 witness?

25 MR. MARDER: Huh?

1 MR. MC MULLEN: I'm allowed to lead the
2 witnesses, isn't that true?

3 MR. MARDER: Go ahead, you can ask your
4 question, I've made my objection.

5 MR. MC MULLEN: Okay.

6 Q. (BY MR. MC MULLEN) So, Mr. Claffee, you have
7 ten to 15 years of retail banking experience is it safe
8 to say?

9 A. Yes.

10 Q. Do you -- Would you say you have more than 15
11 years of experience in how customers engage with banks?

12 A. Yes.

13 Q. How many years of experience do you have in
14 that area?

15 A. The first 14 to 15 years of my career was
16 serving customers and managing teams in a call center
17 environment for a financial institution.

18 Q. The first 15 years?

19 A. Yes.

20 Q. And so we add that to your -- I think -- I
21 think it was ten to 15 years of retail banking
22 experience. Would you say you have at least 25 years of
23 experience in how cust -- banking customers engage
24 with -- with banks?

25 A. Yes.

1 Q. Thank you. That would include how a customer
2 interacts with a physical banking location, right?

3 A. Yes.

4 Q. In other words, how they interact with branch
5 locations, correct?

6 A. Yes.

7 Q. That -- That would include in your 25 years in
8 -- of experience how customers interact with bank
9 tellers, is that true?

10 A. Yes.

11 Q. And how customers engage banking products, is
12 that true?

13 A. Yes.

14 Q. So I have some questions that deal with how a
15 customer may engage a bank or banking services. And --
16 And you can tell me what your experience has been with
17 that. So my first question is are you familiar with the
18 concept of cashing a check?

19 A. Yes.

20 Q. And what's the -- How do we distinguish what
21 cashing a check is versus depositing a check?

22 A. If a customer is going to cash a check they're
23 expecting cash back from that check versus depositing
24 where they're going to put it into a bank account.

25 Q. And why would a -- why might a customer choose

1 to cash a check versus making a deposit?

2 A. For a number of reasons. They -- they need the
3 cash, they are purchasing something using that cash,
4 they're paying bills with that cash.

5 Q. I agree. So we agree then that some of the
6 reasons -- some of the primary reasons that a customer
7 might cash a check include things that have to deal with
8 necessity, did I understand that to be the case?

9 MR. MARDER: Objection, form.

10 A. I agree with that, yes.

11 Q. And so items among those necessities would be,
12 for example, they need to cash a check to pay for
13 groceries?

14 A. Sure.

15 Q. Or pay a bill?

16 A. Sure.

17 Q. They may need to -- and I think your answer is
18 consistent with this, that a person cashing a check has
19 a need for their funds to be given to them immediately,
20 would you agree with that?

21 A. In some cases, yes.

22 Q. Okay. What would be the significance to that
23 person if a -- if a person who needs the cash
24 immediately if that check cannot be cashed?

25 MR. MARDER: Objection, form.

1 A. Could you restate the question, please.

2 Q. So let's have a -- let's discuss it as a
3 hypothetical, and tell me if I'm wrong. Your answer was
4 that in some cases, not all, a customer may require that
5 -- may be seeking that their check be cashed because
6 they have an immediate need for those funds, is that
7 right?

8 A. Yes.

9 Q. And that immediate need oftentimes has to do
10 with a personal necessity such as paying a bill, paying
11 for groceries or paying for rent, would you agree with
12 that?

13 MR. MARDER: Objection, form.

14 A. Yes, I can agree with that.

15 Q. And so my question is if in that hypothetical
16 with those conditions what would be the significance to
17 a person who attempts to cash a check and the bank
18 refuses to cash the check?

19 MR. MARDER: Objection, form.

20 MR. MC MULLEN: What's the basis for the
21 form objection?

22 MR. MARDER: Number one, you're asking the
23 witness to speculate. Number two, you're asking him for
24 an opinion. And this witness is a fact witness, not an
25 expert witness.

1 MR. MC MULLEN: I think I've laid some
2 foundation in the -- is that the -- is that the entire
3 nature of the objection?

4 MR. MARDER: That's my objection.

5 MR. MC MULLEN: Thank you.

6 Q. (BY MR. MC MULLEN) Mr. Claffee, if you can
7 recall the question, otherwise I can have it read back
8 to you.

9 A. Yeah, please read it back to me.

10 MR. MC MULLEN: And I'm sorry, Madam Court
11 Reporter, I -- my memory is okay but not quite that
12 good, if you wouldn't mind to read that back, please.

13 THE REPORTER: Sure. Okay, the question
14 was: And so my question is if in that hypothetical with
15 those conditions what would be the significance to a
16 person who attempts to cash a check and the bank refuses
17 to cash the check?

18 MR. MARDER: Same objection.

19 A. Well, the customer would leave the bank without
20 having their cash.

21 Q. What would be the significance to that person
22 that they do not have the cash in that instance under
23 those --

24 MR. MARDER: Objection -- Sorry, Matt, you
25 done?

1 MR. MC MULLEN: I am.

2 MR. MARDER: Objection, form.

3 A. They would need to use an alternate form of
4 payment if they don't have the cash.

5 Q. Well, we've identified that this person needs
6 the cash, right, in this hypothetical?

7 A. Okay.

8 Q. Is -- We're working with the same hypothetical,
9 right?

10 MR. MARDER: Objection, form.

11 A. Okay.

12 Q. I'm sorry, Mr. Claffee, we're working with the
13 same hypothetical, can we agree on that?

14 A. Yes.

15 Q. And so in this instance a person who cannot get
16 the cash cannot access their cash immediately, right?
17 We agree on that?

18 MR. MARDER: Objection, form.

19 A. Yes.

20 Q. Okay. Let's add to this hypothetical, maybe
21 that'll help with your answer. This person needs to pay
22 for groceries, for example, for their child. If a
23 person cannot cash the check what would be the
24 significance to that person, what -- what must they do
25 in that instance?

1 MR. MARDER: Objection, form.

2 A. Depending on where they shop most grocery
3 stores, places that have groceries might accept a check
4 and they could use that check to pay for their
5 groceries. There are other alternatives to cashing the
6 check, check cashing agencies, some liquor stores, for
7 instance.

8 Q. What if the bank had actually seized the check
9 and -- and taken the check from them, what would that
10 person do then?

11 MR. MARDER: Objection, form.

12 A. They would need to find an alternate form of
13 payment for their groceries.

14 Q. They would need to find a different source of
15 funds entirely, wouldn't they?

16 MR. MARDER: Objection, form.

17 A. Yes, they would.

18 MR. MC MULLEN: And just -- just for the
19 -- to make it easier on you, Scott, we can just lodge a
20 standing objection on -- I think you had previously
21 identified what these form objections were.

22 MR. MARDER: Yeah, if you'll -- if you'll
23 accept a standing objection to the line of questions
24 that are hypotheticals where you're asking the witness
25 to speculate and/or render opinions on this line of

1 questions that's fine.

2 MR. MC MULLEN: Yeah, of course. And I'm
3 not stipulating that I'm doing those two things but
4 that's your objection.

5 MR. MARDER: Yeah, no, I -- yeah, I get
6 that, that's fine.

7 MR. MC MULLEN: Okay, thank you.

8 Q. (BY MR. MC MULLEN) So in -- in our
9 hypothetical, Mr. Claffee, we have an individual who --
10 where the bank has taken the check and they need to
11 identify different funds entirely, right, if they're
12 going to meet their immediate necessities, can we agree
13 on that?

14 A. Yes, sir.

15 Q. Because the funds because of the bank's action
16 are no longer available until the bank releases that
17 check?

18 A. That's correct.

19 Q. And we'll come back to that. I think we can
20 agree before we move on to a different topic that if you
21 are dealing with a person whose resources have been
22 compromised in such a way that they can't get access to
23 a source of funding for an immediate need, we can agree
24 that that could create an actual crisis for that person
25 in that hypothetical, can we?

1 A. It could be, yes.

2 Q. Right. You understand from your 25 years of
3 experience in retail banking that customers have all
4 types of financial backgrounds, right?

5 A. Yes.

6 Q. And you have some familiarity with the needs of
7 customers from these different income levels?

8 A. Yes.

9 Q. And would you imagine that any other retail
10 banking or -- or employee of Harford Bank with retail
11 banking experience such as yours would also be familiar
12 with those types of circumstances such as the
13 circumstances we described in our hypothetical earlier?

14 MR. MARDER: Objection, form.

15 A. Yes, I do.

16 Q. Before we go on I just wanna touch on some of
17 the ways that you prepared for this deposition. Did you
18 meet with your legal counsel for Harford Bank prior to
19 this deposition? And before you answer I don't wanna
20 hear the actual substance of the conversation,
21 nothing -- no communications between you and the -- the
22 attorneys, just the real specifics of the question. So
23 in this case the question would be did you meet with
24 legal counsel?

25 A. Yes.

1 Q. How long were your meetings? And actually let
2 me -- let me back it up. How many meetings were there?

3 A. I had one.

4 Q. How long was that meeting?

5 A. Approximately an hour-and-a-half.

6 Q. When was the meeting?

7 A. I don't recall the exact date. It was -- I
8 believe it was earlier this week.

9 Q. We can say perhaps within the last two weeks?

10 A. Yes.

11 Q. And who was present in the meeting?

12 A. It was Mr. Marder and myself.

13 Q. Anyone else?

14 A. No.

15 Q. Did you review documents in that meeting?

16 A. We did.

17 Q. How many documents did you review?

18 A. We reviewed the document that I prepared called
19 a memo.

20 Q. Okay. And I think we're gonna be discussing
21 that. You prepared a memo in this matter which you
22 supplied to one of your supervisors or -- not supervisor
23 but your superior within Harford Bank, is that right?

24 A. That's correct.

25 Q. Have you reviewed that document with

1 Mr. Marder?

2 A. I did, yes.

3 Q. Which other documents did you review with
4 Mr. Marder?

5 A. There were no other documents.

6 Q. Did you review any of the documents that were
7 referenced in your report with Mr. Marder?

8 A. Can you clarify that?

9 Q. Yeah. So, for example, I think your report has
10 photo -- photographs of checks within it or maybe
11 references another policy document or another procedure.
12 Did you review any documents that were referenced in the
13 report or just the report itself?

14 A. We referenced everything that was in the memo.

15 Q. Okay. So --

16 A. And reviewed the memo -- I'm sorry. We
17 reviewed the memo.

18 Q. Okay. Did you pull up separate documents that
19 were referenced in the memo? So for -- and I'll -- I'll
20 make it easier on you. I think there's a section of
21 your report where you discuss that a bank teller
22 followed a procedure. Do you -- Did you actually review
23 a document describing that procedure with Mr. Marder?

24 A. I did not.

25 Q. Okay. So you only -- and we'll identify this

1 later -- but you only reviewed your report with
2 Mr. Marder?

3 A. That's correct.

4 Q. No other documents, right?

5 A. That's correct.

6 Q. Thank you. I wanna get back to your role
7 within Harford Bank. Tell me what your job title again
8 is, if you wouldn't mind to do that, and what your job
9 duties at the general level entail.

10 A. My title is Manager of Retail Banking Services.
11 And generally my job is to oversee and manage the retail
12 branch network and branch operations.

13 Q. Are you considered an officer of Harford Bank?

14 A. Yes, I am.

15 Q. And so you have the ability to exercise
16 judgment and discretion in -- within your job role at
17 Harford Bank?

18 A. Yes, I do.

19 Q. Can you describe some of the -- No, I'll strike
20 that question. Do you have authority in your deposition
21 today to speak on behalf of Harford Bank, at least as to
22 matters that pertain to -- in this lawsuit?

23 MR. MARDER: Objection, form.

24 A. As I understand I'm here with respect to the
25 facts of this case and the memo that I prepared.

1 Q. Okay. And as a -- as a director of Harford
2 Bank are there instances in which you are -- you have
3 authority to bind Harford Bank?

4 MR. MARDER: Objection, form.

5 A. First of all, I am not a director of the bank.

6 Q. I'm sorry. Are -- we'll -- we'll -- you said
7 earlier that you were an officer of Harford Bank, is
8 that right?

9 A. That's correct.

10 Q. And that's -- my apologies, I'm conflating the
11 two things. As an officer of Harford Bank in your job
12 role are there instances in which you can bind Harford
13 Bank?

14 MR. MARDER: Objection, form.

15 A. I don't know the answer to that question.

16 Q. Are you able to -- Well, I'll just put it to
17 you directly. Are you -- in your -- in your deposition
18 today when you -- when you testify are you testifying as
19 a -- an officer of Harford Bank?

20 MR. MARDER: Objection, form.

21 A. I'm testifying to the fact that I know of this
22 case and I'm an officer of the bank.

23 Q. Are you testifying as an officer of the bank?

24 MR. MARDER: Objection, form.

25 A. Yes.

1 Q. Thank you. Who -- Who designated you to
2 testify today?

3 MR. MARDER: Matt, this is not a corporate
4 representative deposition. You noticed him by name.

5 MR. MC MULLEN: I understand.

6 Q. (BY MR. MC MULLEN) Same question.

7 MR. MARDER: Objection, form.

8 A. I don't know who asked me to testify today
9 other than one of the two gentlemen on the phone. It
10 was either Scott or Mike.

11 Q. Okay. And -- And I'm not trying to lead you
12 down a trap here. I just wanna confirm that we noticed
13 your deposition and no one else decided that you should
14 step forward on this matter other than by virtue of
15 having been noticed. Is that -- is that your
16 understanding?

17 A. That's my understanding.

18 Q. Thank you. Let's move ahead here to going back
19 to your experiences as a retail banking professional.
20 You would agree that ensuring that banking customers
21 have equal access to banking services regardless of
22 their race, gender, creed and nationality is of the
23 utmost importance to Harford Bank, is that true?

24 A. Yes, sir.

25 Q. And, in fact, it's a first priority, is that

1 true?

2 A. Yes, sir.

3 MR. MARDER: Objection, form. Brian, you
4 just have to pause about a second before -- before you
5 answer, please.

6 MR. MC MULLEN: And -- And, Scott, just
7 for -- you know, obviously that -- that instruction to
8 you, Mr. Claffee, doesn't change but if -- if your
9 objection comes in afterward it's fine. I'm not gonna
10 object on the timing.

11 MR. MARDER: Yeah, no, I appreciate that,
12 Matt. I just want to try to make things as easy as
13 possible for Vanessa.

14 MR. MC MULLEN: Understood.

15 Q. (BY MR. MC MULLEN) Mr. Claffee, what, if
16 anything, could be more important than ensuring that
17 banking customers have equal access to banking services
18 regardless of race, gender, creed or nationality?

19 MR. MARDER: Objection, form.

20 A. As a community bank our mission is to serve
21 people in our communities where we have our branches
22 and -- and our overall footprint. That's our role.

23 Q. And my question was is there anything that the
24 bank -- is there anything more important to the bank
25 than ensuring that customers have equal access to

1 banking services regardless of race, gender, creed or
2 nationality?

3 A. Our goal is to provide banking services in our
4 community, so that is our number one charge.

5 Q. And so I -- I read your answer -- and you can
6 correct me if I'm wrong -- to mean there may be things
7 that are equally important to that charge but nothing
8 that surpasses that charge, is that right?

9 MR. MARDER: Objection, form.

10 A. I guess I would put it this way, if we don't
11 have customers we don't have a bank. So we're here to
12 serve the needs of our customers in the community where
13 we live and work.

14 Q. I understand. But my question was is there
15 anything more important to the bank in your experience
16 at the bank and as a -- as an officer of the bank than
17 providing equal access to banking services regardless of
18 race, gender, creed or nationality?

19 MR. MARDER: Objection, form.

20 A. No, the customers' needs come first.

21 Q. Right. And that's because customers have a
22 right to equal access to banking services regardless of
23 race, gender, creed or nationality in the United States,
24 isn't that right?

25 MR. MARDER: Objection, form.

1 A. Yes, they do.

2 Q. Thank you. Do you have experience at Harford
3 Bank in drafting or putting together bank policies?

4 A. I do not write policy.

5 Q. Okay. And just to -- I think I understand your
6 answer to mean that you have never done that for Harford
7 Bank, you have never drafted bank policies for Harford
8 Bank, is that correct?

9 A. I do not draft policy, no.

10 Q. Okay. And -- And just to be clear, you do not
11 but you have also never drafted bank policy?

12 A. I have not written bank policy. I've probably
13 been asked my opinion or what should go into a policy.

14 Q. Okay. And so you -- you would, for example,
15 tap into your retail banking experience perhaps to
16 provide the bank with your opinions about policies that
17 it seeks to adopt or enforce?

18 MR. MARDER: Objection, form.

19 A. That would be fair, yes.

20 Q. Have you -- have you done that -- Well, have
21 you drafted policies at any other bank in your
22 professional experience?

23 A. I do not -- I have not drafted policies, no.

24 Q. Similar to how you -- you contributed to --
25 to -- your insight to Harford Bank on either drafting or

1 enforcing Harford Bank policies, have you ever done that
2 at a different bank in your professional experience?

3 A. I have not.

4 Q. So at Harford Bank you have new experience in
5 the sense that you've been asked from time to time to
6 contribute your years of experience to putting together
7 Harford Bank policies, is that fair to say?

8 A. Yes, that's fair.

9 Q. To -- When a bank is putting together policies,
10 and we're gonna talk specifically about the policies
11 that have to do with diversity we'll call it, we would
12 agree and you would agree that failing to provide equal
13 access to Harford Bank customers based on race, gender,
14 creed or nationality can have impacts in the community.
15 Would you agree with that?

16 A. Yes.

17 MR. MC MULLEN: Objection, form.

18 Q. There was a form objection but I don't -- I
19 didn't catch your answer, Mr. Claffee.

20 A. Yes.

21 Q. What would be -- Can you provide me with some
22 examples of how failing to provide equal access to
23 banking services might contribute to or might impact a
24 community?

25 MR. MARDER: Objection, form.

1 A. Some examples might be not providing certain
2 home loans to a certain segment of the population. And
3 there are laws to protect consumers because of that.

4 Q. That's an example?

5 A. Uh-huh.

6 Q. And so the result of that example would --
7 would be there may be economic segregation or -- that
8 would impact racial minorities, would that be fair to
9 say?

10 MR. MARDER: Objection, form and
11 foundation.

12 A. I can't answer that question.

13 Q. Tell me why you can't answer that question.

14 A. Well, could you rephrase it then, please.

15 Q. Well, my question was -- and you've rightfully
16 cited that, for example, if a racial minority doesn't
17 have equal access to banking services it may deprive
18 them of economic opportunities such as mortgage loans.
19 Is that fair to say?

20 MR. MARDER: Objection, form.

21 A. I did not single out in my answer any one of
22 the categories you mentioned. I just said broadly if
23 we're not providing home lending services to the people
24 in our community it could have negative effects, I agree
25 with that.

1 Q. What would those negative effects be?

2 MR. MARDER: Objection, form.

3 A. People -- The American dream is to own a -- own
4 a home. If they're unable to get a mortgage to be able
5 to purchase that home that's certainly something that
6 would hurt their -- their long term prospects perhaps of
7 finding that home --

8 Q. So there would be -- I'm sorry --

9 A. -- and realizing their dream.

10 Q. Okay. And that would be an example perhaps,
11 would you agree, of a banking policy or a banking
12 practice that could create an economic -- that could
13 create economic segregation for racial minorities, isn't
14 that true?

15 MR. MARDER: Objection, form and
16 foundation.

17 A. Well, there are laws protecting them. It's not
18 just a bank policy. There are laws protecting them.

19 Q. Right. And we've put in place laws because of
20 that, because there would be greater societal damage if
21 a bank doesn't provide equal access to banking services
22 to racial minorities, isn't that true?

23 MR. MARDER: Objection, form and
24 foundation.

25 A. Laws are put into place to avoid

1 discrimination.

2 Q. Why are they put into place to avoid
3 discrimination?

4 MR. MARDER: Same objection.

5 A. I can't speak to that specifically, I didn't
6 craft the laws. But, you know, if you're a bank serving
7 the community you wanna be able to serve the -- all the
8 different types of people in the community from home
9 lending to banking services.

10 Q. Sure. But we can agree I -- I presume that
11 these policies -- and I'm asking you as a -- as a retail
12 banking professional with over 25 years of experience --
13 that if bank practices or bank policies don't provide
14 equal access, we can agree that could have a greater
15 societal impact on racial minorities, can we agree on
16 that?

17 MR. MARDER: Objection, form and
18 foundation.

19 A. It could. And that's why there are laws
20 against that -- that activity.

21 Q. We agree on that point.

22 MR. MARDER: Is that a question, Matt?

23 MR. MC MULLEN: It is not. That is a
24 sidebar and your objection is noted.

25 MR. MARDER: Then I don't need to object

1 to it if it's not a pending question.

2 MR. MC MULLEN: It's not a pending
3 question.

4 Q. (BY MR. MC MULLEN) I think that as an
5 extension of what we discussed we agree that -- well
6 plainly, we agree that folks of all different racial
7 complexion should have equal access to banking services,
8 right?

9 MR. MARDER: Objection, form.

10 A. Everyone in the communities we serve should
11 have access to banking services.

12 Q. And we'll talk about the communities that
13 Harford Bank serves. My question coming from that is
14 in -- in any case regardless of a person's race, gender,
15 creed or nationality, if that customer prevents the --
16 presents the bank with a valid check, and there are no
17 other competing concerns, that check should be accepted
18 by the bank, isn't that right?

19 MR. MARDER: Can I have the question read
20 back? I'm not sure I heard it.

21 MR. MC MULLEN: No problem.

22 THE REPORTER: Okay, the question was: My
23 question coming from that is in -- in any case
24 regardless of a person's race, gender, creed or
25 nationality, if that customer prevents the -- presents

1 the bank with a valid check, and there are no other
2 competing concerns, that check should be accepted by the
3 bank, isn't that right?

4 MR. MARDER: Objection, form.

5 A. If we know the check to be valid yes, we should
6 either cash it or deposit it, that's correct.

7 Q. To touch on your point that you would have to
8 know the check is valid, would it be fair to say that
9 unless you have a -- a legitimate concern that the check
10 is invalid the check should be accepted?

11 MR. MARDER: Objection, form.

12 A. That's fair.

13 Q. Thank you. Touching on one point. We talked
14 about banking policies. And you have some experience in
15 at least lending your insight from your years of banking
16 services experience to at least sharing your opinions on
17 banking policies. So I have some questions on that
18 point. You would agree that it's important to
19 understand the social impact of policies when crafting
20 them?

21 MR. MARDER: Objection, form.

22 A. Yes.

23 Q. You would also agree that it's important to
24 understand the social impact of policies when enforcing
25 them or, in other words, when carrying them out?

1 MR. MARDER: Objection, form.

2 A. Yes.

3 Q. Would you agree that if an employee of the bank
4 acts in a way that has a particularly negative social
5 impact, and that employee is doing so within the course
6 and scope of their employment, the bank should be
7 accountable for that behavior?

8 MR. MARDER: Objection, form.

9 A. Can you give me an example? That seems very
10 broad.

11 Q. Sure. Let's get into an example but first I'd
12 like the answer to that question.

13 A. It was a long question. Could you please
14 repeat the question.

15 Q. Not a problem. If -- If a bank employee acts
16 in a way that has a negative social impact, and that
17 employee does so in the course and scope of their
18 employment, will you agree that the bank should at least
19 in part be held accountable?

20 MR. MARDER: Objection, form.

21 A. Yes, that could be true.

22 Q. Thank you. Let's just discuss Harford Bank in
23 particular. Is Mar -- Harford Bank is a Maryland bank,
24 is that right?

25 A. Yes, it is.

1 Q. Is -- Is Maryland the only state that Harford
2 Bank operates in?

3 A. Yes, it is.

4 Q. And I understood -- this is not an exact figure
5 but that Harford Bank has in the range of \$365 million
6 in assets, is that right?

7 A. At least, yes.

8 Q. Thank you. Harford Bank has eight branches?

9 A. We have ten.

10 Q. Ten branches, thank you. And about how many
11 employees does Harford Bank have at the moment?

12 A. I don't know the exact number. It's about 90.

13 Q. Okay. Maybe 80 to 100 employees, roughly?

14 A. Absolutely, that's fair.

15 Q. And so in -- of the bank's operations there are
16 ten branches. Is your role -- do you interface with all
17 ten branches or do you have particular branches you
18 interface with?

19 A. I oversee all ten.

20 Q. Okay. You have a role in overseeing all 80 to
21 100 employees of Harford Bank, is that fair to say?

22 A. No. There are roughly 40 employed in the
23 retail world of the ten branches.

24 Q. Understood. And so that's because you're
25 involved in the retail banking side so naturally you --

1 you only deal with the retail banking employees, is that
2 fair to say?

3 A. That's correct, I oversee the employees in the
4 ten branches.

5 Q. Okay. And there are about 40 employees in
6 the -- in the ten retail branches, is that fair to say?

7 A. Yes. Between 40 and 45, that's correct.

8 Q. Okay. Is there anyone else at Harford Bank who
9 on the -- on the sort of corporate ladder is on par with
10 you or are you at an -- at an apex on the -- on that
11 chain of command?

12 MR. MARDER: Objection, form.

13 A. I'm the only one in the retail side. There are
14 certainly other officers at my level in different
15 departments.

16 Q. Understood. In the retail side, though, there
17 are folks who perhaps have more authority than you do
18 and less authority than you do but no one with equal
19 amount of authority as you, is that right?

20 MR. MARDER: Objection, form.

21 Q. And I can phrase it another way, I don't wanna
22 get caught in the weeds in that phrase in there. But
23 you are -- you manage or oversee about 40 to 45 retail
24 banking employees, right?

25 A. Yes.

1 Q. And there are folks above the -- above you in
2 the chain of command, correct?

3 A. Yes.

4 Q. But you don't -- all I wanna know is do you
5 have a co -- a compatriot or a co-manager who is resting
6 exactly at the same level as you in the retail banking
7 side?

8 A. No, not in retail banking.

9 Q. Okay, thank you. It was a clumsy way to get
10 there but I think I understand your question -- or your
11 answer. And so you are at -- at the helm, in a way, of
12 the retail banking book of business that Harford Bank
13 does, is that correct?

14 MR. MARDER: Objection, form.

15 A. I oversee the ten branches if that's what you
16 mean by helm, yes.

17 Q. Sure. And I put -- and I just -- I put the
18 same definition that -- that you may on helm. So you
19 have some -- you have familiarity then with retail
20 operations at Harford Bank, is that fair to say?

21 A. Yes, sir.

22 Q. You have some exposure to how often Harford
23 Bank either refuses to deposit or refuses to cash checks
24 at the operational retail level, is that fair to say?

25 MR. MARDER: Objection, form and

1 foundation.

2 A. That's very broad. There are so many checks
3 that are reviewed on a day-to-day basis. I'm not aware
4 of all of them, no.

5 Q. And do you know about how many checks at the
6 ten branches are reviewed every day at Harford Bank?

7 A. I do not know that number.

8 Q. Would it be -- How many checks perhaps are
9 reviewed by a single branch on a given day, rough
10 estimate?

11 A. I couldn't even guess at that number.

12 Q. Would a thousand checks per day be accurate or
13 in the range?

14 A. I don't know.

15 Q. Would it be less than a thousand checks per
16 day?

17 A. More than likely, yes.

18 Q. Okay. Would it be less than 500 checks per
19 day?

20 A. I would have no idea.

21 Q. Fair to say that a -- one of your -- on any
22 given day one of your branches is not likely to review
23 more than a thousand checks per day, is that right?

24 MR. MARDER: Objection, form -- excuse me,
25 objection, form.

1 A. I think that's fair.

2 Q. How often do you in your role get brought in --
3 Well, let me ask it this way. In your role if a check
4 is refused do -- does -- does the branch employee need
5 to contact you in that -- in that situation or -- or --
6 or not?

7 A. They do not need to contact me. I would hope
8 they would.

9 Q. Why would -- why would you hope that they
10 would?

11 A. We're a community bank. If we're refusing to
12 cash a check for whatever reason I'd like to be made
13 aware of it and have a conversation.

14 Q. Your preference would be that in all instances
15 where a check is refused that you be contacted?

16 A. That is not my preference, no. All checks is
17 very broad.

18 Q. Sure. And -- And I'm just asking what your
19 preference is. You would prefer that more often than
20 not you're contacted when a check is refused?

21 MR. MARDER: Objection, form.

22 A. If a check is presented at a branch and they
23 are unable to cash it -- so this is an in person
24 transaction -- I would certainly like to be made aware
25 of that because there could be implications that there

1 is fraudulent activity on an account perhaps.

2 Q. What would be another reason why you'd like to
3 be contacted?

4 MR. MARDER: Objection, form.

5 A. If a customer -- if we were not able to cash a
6 check for a customer and they requested the check back
7 and it resulted in maybe an escalation of the issue I
8 would certainly like to be made aware of that.

9 Q. And so I read into that -- and you can correct
10 me if I'm wrong -- that you are generally, not always,
11 but generally available if branch locations have an
12 issue with a check they'd like to deposit -- that they
13 believe they need to refuse, is that fair to say?

14 A. Yes, I'm available for them to consult with, of
15 course.

16 Q. Sure. And they're not compelled to contact
17 you, but if they -- if they -- you would -- you would
18 like to be contacted if it's possible, is that fair to
19 say?

20 MR. MARDER: Objection, form.

21 A. Yes, but they're empowered to make these
22 decisions every day.

23 Q. Correct. And I'm -- I'm not -- not trying to
24 muddy the waters there, but you certainly are available
25 to branch employees in cases where checks need to be

1 refused, is that your testimony?

2 A. Yes, I'm available.

3 Q. Thank you. So you have no numbers, for
4 example, of the rates at which Harford Bank has let's
5 say in a year -- in a given year refused to deposit or
6 cash checks?

7 A. I do not.

8 Q. If you needed to know that, for example, if you
9 needed to prepare a report on it does Harford Bank
10 maintain data on those figures?

11 A. Not that I'm aware of, no.

12 Q. Are all incidents in which a bank -- or in
13 which Harford Bank refuses to cash or deposit a check,
14 are all of those instances documented at the bank?

15 A. Not that I'm aware of.

16 Q. There is not a policy in place where if a bank
17 teller or a bank employee refuses to cash or deposit a
18 check that the bank needs to document that?

19 A. Could you be more specific?

20 Q. Sure. So if a -- in a hypothetical if a -- if
21 a customer comes to the bank and wants to have their
22 check cashed, and the bank either refuses or is unable
23 to do so, is there any documentation generated from that
24 refusal?

25 A. It's possible.

1 Q. It's not required by Harford Bank policy?

2 A. It's not possible in all situations to get that
3 documentation.

4 Q. I'm talking about -- I'm sorry, I didn't mean
5 to cut you off.

6 A. I said if that makes sense is all I'm saying.

7 Q. Sure. So what you're saying is there may be
8 instances in which the bank is unable to document what
9 happened for any particular reason, is that right?

10 A. That's possible, yes.

11 Q. Is there -- My question is is there a policy
12 that says to Harford branch bank employees if you refuse
13 a check you must document that incident in any
14 particular way?

15 A. I don't believe there's a policy that states
16 that specifically, no.

17 Q. And so if -- Well, first, if a -- an employee
18 does do that and wishes to document the incident is
19 there a means or a manner in which the bank specifies
20 that that should be done?

21 A. There are certain people that need to be
22 notified in some of those cases, yes.

23 Q. How should they be notified?

24 A. They can pick up the phone and call, they can
25 email the information. I don't think it's specific to

1 any one particular way.

2 Q. Okay. The bank doesn't -- in other words, the
3 bank does not specify how that incident should be
4 recorded but it -- it -- let me rephrase that. The bank
5 does not specify how individuals at the bank need to be
6 notified about that incident, is that fair to say?

7 A. There are -- There are procedures in -- in how
8 to notify the bank security officer and myself in
9 certain instances, yes.

10 Q. There are procedures for how to notify you and
11 the bank security officer?

12 A. To notify. It doesn't specify how.

13 Q. Okay. But they must notify you and the bank's
14 security officer?

15 MR. MARDER: Objection, form.

16 A. In certain instances, yes.

17 Q. What are those instances?

18 A. In our policy if a check is over a certain
19 dollar amount they're required to call and verify with
20 the maker of the check, for instance. And if we're
21 unable to cash a check because they believe it to be
22 fraudulent they are supposed to let the security officer
23 and myself know that that happened.

24 Q. What's the dollar amount that you specify?

25 A. I don't have the policy in front of me

1 obviously. It's -- I believe it's \$500.

2 Q. What's the significance of \$500?

3 A. It's been our policy for years, before I got
4 here.

5 Q. Is refusing to cash a check one of the
6 instances in which -- in which you and the -- and the
7 security officer are to be notified?

8 A. If they believe it to be fraudulent, yes.

9 Q. In -- In cases where the -- So the answer is
10 yes in cases where the refusal is based on a belief that
11 the check is fraudulent, is that accurate?

12 A. Yes.

13 Q. What other in -- situations would -- I'm sorry,
14 one moment. When a -- When this occurs and a check is
15 suspected to be fraudulent the employee can either call
16 or email you and the branch security officer?

17 A. Yes.

18 Q. Are there any other ways that they can notify
19 you?

20 A. We now have access to teams chat. They could
21 certainly put the information in our teams chat as well.

22 Q. Are there any other ways that you can be
23 notified?

24 A. That pretty much covers it.

25 Q. And so in the instance where a bank employee

1 believes a check that's been presented to be cashed to
2 the bank is suspected of fraud, the ways that an
3 employee can report that to you are to call you, email
4 you and -- or send you a message on teams, is that
5 correct?

6 A. Those are all appropriate, yes.

7 Q. And there are no other ways to do that?

8 A. Those are probably the best ways.

9 Q. I understand. Are there other ways to notify
10 you of that information?

11 A. I guess they could put it in interoffice mail
12 and mail it to our headquarters.

13 Q. Are there any other ways they can notify you?

14 A. Not that I can think of.

15 Q. Is there anyone at Harford Bank who is familiar
16 with the policy of -- well, actually I think I'm about
17 to test -- depose that person so I'll save that question
18 for later. Correct me if I'm wrong, in an instance
19 where a check is suspected of being fraudulent a branch
20 employee must contact you and the branch security
21 officer, is that correct?

22 A. If they deem the item to be fraudulent, is that
23 what you said? Then yes.

24 Q. If they suspect it of being fraudulent.

25 A. Yes.

1 Q. Which policy specifies that protocol?

2 A. I don't know.

3 Q. Is it a policy that you referenced in the
4 report that you wrote that -- that we referenced when
5 you were talking about your conversation with
6 Mr. Marder?

7 A. Do you have -- can you share that with me? I
8 can read that and confirm that.

9 Q. I will. And right now I'm just going on your
10 recollection. We'll cover the -- the actual report.

11 A. Okay.

12 Q. As you sit here right now can you think of a
13 policy is my question.

14 A. Our check cashing policy.

15 Q. The check cashing policy. Excellent.

16 MR. MARDER: Hey, Matt, whenever it's a
17 good time for you to take a break just -- we're heading
18 to it.

19 MR. MC MULLEN: Yeah, I agree we're at
20 the -- roughly the hour mark now, so say ten minutes?

21 MR. MARDER: Yeah, works for me if it
22 works for Brian. Brian, you wanna go for another ten?

23 THE WITNESS: That's fine. 10:13 we're
24 back.

25 MR. MC MULLEN: Excellent. Works for me.

1 MR. MARDER: Sounds good. See you ten.

2 VIDEOGRAPHER: We're off the record. The
3 time is 10:04 a.m.

4 (Recess from 10:04 to 10:17)

5 VIDEOGRAPHER: We are back on the record,
6 the time is 10:17 a.m.

7 MR. MC MULLEN: Thank you.

8 Q. (BY MR. MC MULLEN) We were discussing a policy
9 whereby branch employees must call you and the branch
10 security officer if a check is suspected of fraud and it
11 has been presented to the bank. So I just have some
12 follow-up questions on -- on how that's documented. In
13 the instance in which this occurs and the employee
14 places a call to you and the branch security officer how
15 is the call documented?

16 A. There's nothing official that it's documented,
17 no.

18 Q. There is no requirement that the call be
19 documented?

20 A. Not that I'm aware of, no.

21 Q. There's no requirement that -- or policy that
22 specifies what must be reported in terms of contents to
23 you and the branch security officer?

24 A. Not that I can recall, no.

25 Q. As to you said if -- this could be reported to

1 you and the branch security officer by email. If that
2 is done are the emails ar -- archived by Harford Bank?

3 A. As far as I know, yes.

4 Q. How long are those archives maintained?

5 A. I do not know.

6 Q. Who would know that information?

7 A. Someone in our IT department.

8 Q. Does anyone at Harford Bank catalog those types
9 of emails?

10 A. I don't know.

11 Q. Who would know that?

12 A. Same answer, someone in the IT department.

13 Q. Does anyone in the human resources department
14 catalog if an employee has decided that -- or has
15 determined that a check may be fraudulent?

16 A. I don't know that.

17 Q. If an employee has an incident in which that
18 employee determines that a check may be fraudulent, HR
19 is not notified of that incident?

20 A. Not in all cases I wouldn't think so, no.

21 Q. And so Harford Bank does not keep records of
22 incidents in which an employee has suspected a check is
23 fraudulent?

24 MR. MARDER: Objection, form.

25 A. Could you rephrase that.

1 Q. Sure.

2 A. I'm sorry, what you're asking.

3 Q. Not a problem. I'll put it a different way.

4 There is no official policy that requires that an
5 employee who has reported a check or suspected a check
6 of being fraudulent be documented and can -- in such a
7 way that it can be tied to that employee for future
8 reference, is that accurate?

9 A. I don't recall exactly what is in the check
10 cashing policy so I -- I don't think I can answer that
11 question completely.

12 Q. Would it be in the -- in any kind -- any
13 personnel policy that you're aware of?

14 A. Not that I'm aware of, no.

15 Q. If the -- Well, when you identified that the
16 incident in this case if a -- if a check is suspected of
17 being fraudulent that could be placed into an
18 intraoffice memo, is that right?

19 A. An interoffice envelope I believe is what I
20 said.

21 Q. Okay. Clarify that. Are those envelopes
22 cataloged by Harford Bank?

23 A. I'm not sure what you mean by cataloged. They
24 are couriered to our headquarters where they are opened
25 and distributed to whoever gets the mail.

1 Q. If you are the recipient of that mail what do
2 you do with the mail after you've read it?

3 A. I don't know what they do upstairs when they
4 open the mail.

5 Q. I'm asking about you. If you receive an intra
6 office envelope what do you do with that communication
7 after you've disseminated the contents?

8 MR. MARDER: Objection, form.

9 A. Are you speaking if mail is coming to me
10 directly in my name?

11 Q. Correct.

12 A. And it has information regarding a fraudulent
13 or potentially fraudulent check?

14 Q. Yes.

15 A. I'm going to consult with our security officer
16 and start gathering the facts to see if it truly is a
17 fraudulent item. And if it is we turn it over to our
18 security officer for handling.

19 Q. And -- And what happens to the literal
20 communication after that point, is it preserved?

21 A. I don't think I have an example of one to even
22 answer that question. I would keep it.

23 Q. How would you store it?

24 A. If I had one I'd put it in -- in my locked
25 files in my drawer in my office.

1 Q. It would go into a physical locked file
2 cabinet?

3 A. Most likely I would scan it first so that it
4 was converted electronically so I could email it to the
5 security officer. He doesn't sit here in this office.
6 And then I would keep the piece of paper in a file, yes.

7 Q. Do you have a -- a physical document storage in
8 your office or at the bank regarding this incident?

9 A. I do have that, yes.

10 Q. And has that -- all of that documentation been
11 provided to Harford Bank's attorneys?

12 A. As far as I know, yes.

13 Q. About how many documents are in that physical
14 storage?

15 A. In my storage it's the memo that I wrote.

16 Q. Just the memo?

17 A. Yes.

18 Q. You have no other physical documentation about
19 this incident?

20 A. I'm sorry, I'm pausing. I -- I may have some
21 printed out emails but they would also be electronic.

22 Q. And you provided those to your counsel?

23 A. Everything we had as far as I know was -- was
24 sent to our counsel, yes.

25 Q. About how many emails were printed out?

1 A. I don't know.

2 Q. Was it more than ten emails?

3 A. Doubtful.

4 Q. Was it more than five emails?

5 A. I couldn't tell you the exact number. It
6 was -- it was a few, maybe one or two. I don't know.

7 Q. Did those emails -- were those emails written
8 in the year 2020?

9 A. I don't recall but probably, yes.

10 Q. Were any of the emails written in 2021 or 2022?

11 A. I don't know.

12 Q. So we have -- Go ahead.

13 A. No, no, sir.

14 Q. Okay. To summarize, the materials that you
15 have -- have had access to and have provided to your
16 counsel is the report that you prepared, and the number
17 of emails, less than five emails that you printed and
18 provided -- either forwarded, printed, scanned and gave
19 to your counsel, is that right?

20 MR. MARDER: Objection, form.

21 A. I believe so, yes.

22 Q. Thank you. I wanna talk -- talk about one more
23 sort of background piece of information, and then we can
24 talk about your report. We talked about some of the
25 possible social impacts of banking policy. And I just

1 wanna touch on one important one because I think it's
2 important to this case. And I want to know your level
3 of familiarity with some of the history on this. Are
4 you familiar with disparities in treatment between White
5 Americans and Black Americans when they encounter
6 police?

7 MR. MARDER: Objection, form.

8 A. Not personally, no.

9 Q. You're not familiar with the concept that there
10 is a disparity in treatment between Black folks and
11 White folks when they deal with police --

12 MR. MARDER: Objection, form.

13 Q. -- and the outcomes of those interactions?

14 MR. MARDER: Objection, form.

15 A. In --

16 Q. You can answer.

17 A. In general yes, sure.

18 Q. Okay. So generally you understand that there
19 exists data on the disparities and outcomes between when
20 white folks interact with -- with police and when Black
21 folks interact with police, is that fair to say?

22 MR. MARDER: Objection, form and
23 foundation.

24 A. Generally, yes.

25 Q. And because there's a form objection can you

1 tell me how you became aware of that issue?

2 A. I'm sorry, which issue?

3 Q. The issue of the disparity and outcomes between
4 when Black people -- when Black Americans and White
5 Americans deal with police and those encounters. How
6 did you become aware that that was an issue?

7 A. Media, social media, friends, stories.

8 Q. Sure. So this is an issue that you're
9 generally aware of, you've read about, you've heard
10 about and you have no reason to believe that it's false,
11 is that right?

12 MR. MARDER: Objection, form.

13 A. That's correct.

14 Q. I wanna point to one particular study.

15 MR. MC MULLEN: Leslie, if you have the
16 study I'm referring to we can -- we can actually show
17 Mr. Claffee the one I'm referring to.

18 MR. MARDER: Are you gonna mark it as an
19 exhibit, Matt?

20 MR. MC MULLEN: Yeah, and actually, if we
21 could, I'd like to mark the notice of taking deposition
22 as Exhibit 1. So this would be Exhibit 2.

23 MS. TYROCH: Matt, is this the mapping
24 fatal policies?

25 MR. MC MULLEN: That's right.

1 MS. TYROCH: Thank you, sir.

2 (Document on screen)

3 Q. And, Mr. Claffee, I'm not gonna expect that
4 you're familiar with this study, but I just want to
5 gauge the level of familiarity you have with it. In
6 this -- I'll represent to you that this is a study that
7 was performed. In the study they refer to MSAs. And on
8 page 1 here I'll represent to you as well that the study
9 refers to MSAs as being metropolitan statistical areas.
10 The study reviewed fatal encounters with police and
11 looked for any disparities in the treatment of White --
12 encounters with White folks and with -- with Black
13 folks.

14 I'll point to page 5 of this report. And
15 I wanna go to the final paragraph of this page. It
16 starts with on average. And, Mr. Claffee, I -- as I
17 mentioned, I don't expect that you're familiar with the
18 study, perhaps you're familiar with the -- the actual
19 level of the disparity which has been objectively
20 measured in American society. I'll read this portion to
21 you. It says, On average there were large racial ethnic
22 inequities in the rates at which White and Black people
23 were killed during police contact. Across all MSAs,
24 Black people were 3.23 times more likely to be killed
25 compared to White people. Mr. Claffee, did I read that

1 portion correctly?

2 A. Yes, sir.

3 Q. And I ask you as -- as an officer of Harford
4 Bank and in your personal experience, do you have any
5 reason to dispute that rate of disparity?

6 MR. MARDER: Objection, form and
7 foundation.

8 A. No, I do not.

9 Q. Right. And so we all understand that when
10 Black folks encounter police and when White folks
11 encounter police it's a vastly different experience for
12 each category of person, is that accurate to you,
13 Mr. Claffee?

14 MR. MARDER: Same objection.

15 A. According to this report that you showed me,
16 yes.

17 Q. In your personal experience do you have any
18 reason to disbelieve that fact?

19 MR. MARDER: Same objection.

20 A. I have no personal experience dealing with
21 that.

22 Q. You -- Do you agree or -- well, let me ask it
23 this way. Do you dispute this fact, do you believe
24 that, in fact, there is no disparity?

25 MR. MARDER: Objection, form and

1 foundation.

2 A. I do not dispute it, no.

3 Q. So you don't believe there is -- you don't
4 believe -- let me ask it this way. My question was do
5 you believe there is no disparity? I understand your
6 answer to be no, I -- I believe there is a disparity, is
7 that accurate?

8 MR. MARDER: Objection, form and
9 foundation.

10 A. Are you asking if I believe there is a
11 disparity?

12 Q. Personally do you believe there's a disparity?

13 MR. MARDER: Objection, form and
14 foundation.

15 A. Yes.

16 Q. And so when you provide your insight as a
17 retail banking professional when you're asked to as you
18 -- you indicated you were from time to time add your
19 thoughts to banking policy, is this a factor that plays
20 into your consideration?

21 MR. MARDER: Objection, form.

22 A. No.

23 Q. Why not?

24 A. This article that I'm reading or that you're
25 citing here is talking about police interaction and --

1 and deaths. I'm not quite sure what that has to do with
2 my job.

3 Q. Understood. So in reacting to a suspicion that
4 a check is fraudulent are the police ever contacted?

5 A. Yes, sometimes.

6 Q. And so that's why I ask it. That doesn't --
7 this disparity doesn't factor in your considerations
8 when dealing with bank policies in which a bank employee
9 may call the police on a customer?

10 MR. MARDER: Objection, form.

11 A. No, it does not.

12 Q. Why not?

13 MR. MARDER: Same objection.

14 A. We follow the law and you can't discriminate.

15 Q. You don't consider the risk to the customer of
16 a police interaction?

17 MR. MARDER: Objection, form.

18 A. No, I do not.

19 Q. Or that some customers may have a heightened
20 risk as a result of a police interaction than others?

21 MR. MARDER: Object -- objection, form.

22 A. I cannot speculate to that, what they think.

23 Q. But it doesn't factor into your considerations
24 when you weigh in on bank policy, does it?

25 MR. MARDER: Objection, form.

1 A. No.

2 Q. Are any Harford Bank policies created that
3 you're aware of, or in existence that you're aware of,
4 that deal with when an employee should contact the
5 police?

6 A. I don't think there's anything written in a
7 policy that states that, no.

8 Q. So it's up to the employee whether to contact
9 the police in any given situation?

10 A. Yes.

11 Q. And in terms of fraud -- fraudulent checks,
12 there's an actual policy on how to deal with a situation
13 in which an employee suspects a check is fraudulent,
14 isn't that right?

15 A. I believe that's spelled out in the check
16 cashing policy, yes.

17 Q. Right. That policy also includes contacting
18 you and the branch security officer, is that correct?

19 A. I don't remember exactly what -- how the policy
20 is worded.

21 Q. Are you aware that the policy asks or
22 encourages or even -- well, are you aware that the
23 Harford Bank's policies instruct that -- and I believe
24 you testified about this earlier -- that you and the
25 branch security officer are notified in the event that a

1 check is suspected of being fraudulent?

2 A. Yes, I agree with that. Yes.

3 Q. Okay.

4 A. If the -- If the check is suspected to be
5 fraudulent it's to be brought to the security officer's
6 attention for sure.

7 Q. But the policy is silent as to involving the
8 police in these matters, is that correct?

9 A. Again, I don't know the exact wording but I
10 don't believe that's in there, no, correct.

11 Q. If a police -- If the police are involved does
12 that result in an -- does Harford Bank policy require
13 documentation be generated when an employee contacts the
14 police?

15 A. Again, I don't know exactly what is in the
16 policy in regards to that.

17 Q. You're not aware of a specific policy that has
18 to do with police interactions between branch employees
19 and the police?

20 A. I don't recall if there's anything specific in
21 the policy, no.

22 Q. Do you keep any records as to how often
23 employees summon the police to branch locations?

24 A. We do not, no.

25 Q. Does anyone at Harford Bank keep track of that

1 information?

2 A. I don't know.

3 Q. If you needed to find out who would you ask?

4 A. Our bank security officer.

5 Q. What's the name of the bank security officer?

6 A. Mitch Lindsey.

7 Q. How long has Mitch Lindsey been employed with
8 Harford Bank?

9 A. I believe about as long as I have been here,
10 about three years.

11 Q. He would have been the branch security officer
12 in the year 2020, is that right?

13 A. Yes.

14 MR. MARDER: Objection, form.

15 A. Sorry, yes.

16 Q. Okay, thank you. The -- You have ten branch
17 locations. I'll -- I'll focus on the branch location
18 now that is involved in your -- in the report that you
19 generated about the incident in this lawsuit. Where is
20 -- That's the -- which -- which branch is that?

21 A. Internally we call it Joppa. It's in
22 Joppatowne, Maryland.

23 Q. What's the nearest if you -- if you -- if you
24 know, what's the nearest branch location to Joppa?

25 A. The nearest next Harford Bank branch?

1 Q. Correct, yes.

2 A. By distance probably this one I'm sitting in,
3 Aberdeen.

4 Q. I apologize, one moment here. What's the
5 distance between Joppa and the Aberdeen location?

6 A. Probably ten miles.

7 Q. Thank you. Are you familiar with the concept
8 of a trade area for each branch location?

9 A. I don't think there's a formal definition but
10 sure.

11 Q. How would you define trade area for each
12 branch?

13 A. Personally I would define the trade area as
14 probably within a five to ten mile radius of a physical
15 branch location.

16 Q. What's the significance of a trade area, in
17 other words, what is a trade area?

18 A. Internally for the managers that I work with I
19 would like them to focus on that area around their
20 branch, so that there's perhaps an overlap where they're
21 stepping on each others toes looking for business. So
22 they have a defined area where they can search and look
23 for, you know, new customers and do business in and
24 around the branch where they live and work.

25 Q. Fair to say that the trade area has to do with

1 cultivating and maintaining banking business, is that
2 right?

3 A. Yes.

4 Q. What other significance is there to a trade
5 area other than what you've described?

6 A. To me that's -- that's pretty much it.

7 Q. So that's -- that's a term of art perhaps that
8 you would use -- well, let's just ask you, do you use
9 the term trade area?

10 A. From time to time. Branch area, trade area,
11 area which we serve, our community. It's all
12 interchangeable.

13 Q. The use of -- and correct me if I'm wrong --
14 you use it, the term trade area, to mean this is an area
15 in which this bank needs to focus its business
16 operations, new client, new customer generation and the
17 maintenance of existing customers. Is that fair to say
18 or would you have anything to add to that?

19 A. That's fair to say.

20 Q. Would you have anything to add to that
21 definition of trade area?

22 A. No.

23 Q. Certainly if a customer wishes to engage a
24 certain branch and does not happen to be within the
25 trade area you're not turning away business, correct?

1 A. No.

2 Q. In terms of the Joppa location how many
3 employees work at that location?

4 A. Today or back in 2020?

5 Q. If you know as to both.

6 A. Actually I believe it's the same number. There
7 are four there today and I believe there were four back
8 then.

9 Q. And who -- what are each of their roles? If
10 you can tell me just the -- the makeup of what that
11 branch would employ.

12 A. Back in 2020 it would have been a branch
13 manager, an assistant manager and two tellers.

14 Q. In 2020 do you know who the branch manager of
15 the Joppa location was?

16 A. In early 2020 yes, it was Gail O'Keefe.

17 Q. Gail O'Keefe no longer works for Harford Bank,
18 is that correct?

19 A. She retired, that's correct.

20 Q. And approximately when did Gail O'Keefe retire?

21 A. She notified us some time in March and she
22 retired at the end of March.

23 Q. She was not terminated, correct?

24 A. No.

25 Q. Who was the assistant manager in early 2020 at

1 the Joppa location?

2 A. Her name is Peggy Hoban. I think her first
3 name is Margaret. We call her Peggy.

4 Q. And who were the two tellers at the Joppa
5 location in early 2020?

6 A. Jasmine and Amber.

7 Q. And that's Jasmine Brown?

8 A. Yes.

9 Q. And what is Amber's last name?

10 A. I -- actually I don't recall.

11 Q. That's fine. Jasmine Brown also no longer
12 works for Harford Bank, is that right?

13 A. Correct.

14 Q. When did she part ways with Harford Bank?

15 A. I don't recall.

16 Q. Was it in 2020?

17 A. Yes, it was some time in 2020.

18 Q. So in early 2020 the Joppa location of Harford
19 Bank employed Gail O'Keefe, who retired during the month
20 of this incident, is that correct?

21 A. Yes.

22 Q. And Jasmine Brown who left -- parted ways with
23 Harford Bank the year of this incident, is that right?

24 A. Yes.

25 Q. When Gail O'Keefe retired did she cite her

1 reasons for choosing to retire in March of 2020?

2 A. I don't recall her reasons for retiring. She
3 had been here for 44 years, I do know that.

4 Q. And so my question is of all the months why did
5 she choose that month, do you know?

6 A. She notified us earlier in that month. I don't
7 know why she chose that, no.

8 Q. Okay. And so you recall that she actually
9 notified you prior to the incident that she was planning
10 to retire in March of 2020?

11 A. That's correct, she did plan to retire.

12 Q. So she knew when this incident occurred that
13 she would be heading -- parting ways with Harford Bank
14 and her profession shortly after or during March of
15 2020?

16 A. Yes.

17 MR. MC MULLEN: Turning to -- well, let me
18 -- okay. We're only about half an hour away from the
19 last break. I've got another topic that will probably
20 put us after 11 o'clock your time. I'll leave it up to
21 other folks. We can continue on or we can take an early
22 break.

23 MR. MARDER: Matt, a question for you --
24 and not to hold you to this, of course, but do you have
25 a sense as to how much longer you'll be with Brian? I'm

1 just trying to think about when we'll finish him versus
2 going to the next deposition.

3 MR. MC MULLEN: I'm about -- I think I
4 have about two hours left, if that helps.

5 MR. MARDER: All right. Brian, I'll leave
6 it to you if you want to take a break now or if you
7 wanna wait another 15, 20 minutes or half hour.

8 THE WITNESS: That's fine, we can wait
9 until then.

10 MR. MARDER: All right. And obviously,
11 Brian, if during that period of time you need to take a
12 break, use the restroom just let us know. Nobody wants
13 you to sit there with your legs crossed.

14 MR. MC MULLEN: Certainly not. Yeah, so
15 if you need a break just let me know. I just thought
16 I'd call it out if we wanted to do it early.

17 Q. (BY MR. MC MULLEN) Mr. Claffee, are you
18 familiar with an individual named Sheira Brown?

19 A. Familiar? I know her name now, yes.

20 Q. How did you become aware of Sheira Brown?

21 A. From an incident that happened back in March of
22 2020.

23 Q. Is that March 19th of 2020?

24 A. Yes, that Thursday night. Yes.

25 Q. How did you first learn of the incident?

1 A. I got a phone call that evening from Gail
2 O'Keefe, the manager.

3 Q. What did Gail tell you?

4 A. Gail said that she had to call the police,
5 everyone was okay, I did nothing wrong but they want to
6 talk to you so I gave them your name and number and they
7 wanna call you.

8 Q. She said I did nothing wrong. Was she
9 referring to herself or to you?

10 A. Herself.

11 Q. Okay. So she called you and said I did nothing
12 wrong, as in I Gail did nothing wrong?

13 A. Correct.

14 Q. Why would she signal whether she had done
15 something wrong?

16 A. I can only guess because she had called the
17 police but she wanted me to know that everybody was
18 okay.

19 Q. Okay. And she told you that you may need to
20 speak with the police?

21 A. She told me that she gave them my phone number
22 and name because they wanted to speak to her boss, me.

23 Q. Understood. Did she impart on you why she --
24 why the police wanted to speak to you?

25 A. No, I don't recall that. No.

1 Q. What else did she report to you on that call?

2 A. That was it. It was a very quick phone call.

3 Q. So Gail called you and advised number one that
4 no one was harmed in this incident -- well, she reported
5 an incident -- that incident to you first, is that
6 right?

7 A. All she said --

8 MR. MARDER: Objection, form. Go ahead.

9 A. All she said to me was we're all okay, I did
10 nothing wrong, the police are here, they need to speak
11 to you and I gave them your name and phone number.

12 Q. Understood. And -- well, why did she -- did
13 she identify why the police had been called?

14 A. I don't recall that she told me that, no. It
15 was a very quick phone call.

16 Q. What happened then?

17 A. Within a few minutes after hanging up the
18 Harford county deputy gave me a call.

19 Q. What did the deputy tell you?

20 A. I know it's in -- in my notes in the memo.
21 From what I recall he said that there was a customer
22 there who tried to cash a check and the check was now
23 locked in the vault. And he wondered if there was a way
24 for us to get this check back out of the vault.

25 Q. Did he tell you why the check needed to come

1 out of the vault?

2 A. He said that the person -- I didn't know her
3 name at the time -- but Ms. Brown requested to have that
4 check given back to her.

5 Q. Did you have an understanding why she needed
6 the check back?

7 A. No, I do not. I did not.

8 Q. But how did you respond to that information
9 from the officer?

10 A. Knowing that the check is locked in the vault,
11 the vault's on a timer and there is no way for anyone to
12 get in that vault until the following morning when the
13 timer comes off and two people open the vault, I
14 asked -- I gave the sheriff my name and phone number and
15 asked that he give that to Ms. Brown so that she could
16 call me first thing in the morning.

17 Q. And just to clarify that timing. Is that a --
18 is that a number of hours? And I'm not trying to rob
19 the bank or anything. How long is -- What's the
20 timeline, is it just the next morning, is it a number of
21 hours?

22 A. Without being too exact so that you can't rob
23 our bank, it's a number of hours so that the timer comes
24 off in enough time for us to open for the day. And it
25 varies if it's a weekend versus a weekday, obviously,

1 the number of hours.

2 Q. Okay. And it requires two -- two bank
3 employees to be there?

4 A. To open the vault.

5 Q. I'm sorry, to open the vault they have some
6 sort of access card or key, does that sound right?

7 A. Yes, it's either a key and a combo or two
8 combinations. So it takes two people, yes.

9 Q. Of the four branch employees who has the
10 ability to open the vault, all four?

11 A. It's two people. And generally most branches
12 you have an A and a B combination. So two people would
13 have the A, two people would have the B. And it would
14 require two of them to get into the vault. It's called
15 dual control.

16 Q. Understood. On that day -- so March 19th of
17 2020 is when this incident happened. I understood your
18 testimony to mean the check could not be accessed from
19 the vault until March 20 -- March 20th of 2020, does
20 that sound right to you?

21 A. That's correct.

22 Q. On March 20th of '22 which -- who would have
23 had -- well, who could -- I won't -- I won't make you go
24 through every permeatation of who could have done this,
25 but you would've had to have two different employees of

1 Harford Bank, is that right, of that branch location?

2 A. Yes, two people from that branch location to
3 get into the vault.

4 Q. And do you have a recollection who had the A
5 and who had the B designation in that -- at that time?

6 A. I have -- no, I do not.

7 Q. Would there have been a way to determine who
8 should be what or is it random?

9 A. I can't speak to that branch specifically,
10 'cause different branches have different types of vaults
11 and combinations versus locks and combos so I can't
12 answer that. I don't know.

13 Q. Would it ever be the case that both tellers are
14 A or B?

15 A. It should not be the case, no.

16 Q. I would think that there's some -- some import
17 to having a manager and a teller at least, is that -- is
18 that your understanding?

19 A. Correct.

20 Q. And so in this case either Gail or -- a
21 combination of either Gail or Peggy on the one hand or
22 -- and Jasmine and Amber on the other hand would have
23 been required, is that right?

24 A. That's correct.

25 Q. On March 20th of 2020 do you know whether Gail

1 or Peggy was scheduled to be at the bank that day?

2 A. I knew Gail was scheduled to be there.

3 Q. Okay. So Gail would've been one of the -- of
4 the two folks that needed to be there to access the
5 vault on March 20th of 2020?

6 A. I believe so, yes.

7 Q. Thank you. And so Gail needed to be at the
8 bank if -- well, Gail was the person who needed to be at
9 the bank or one of the people who needed to be at the
10 bank at the Joppa location on March 20th of '20 to
11 actually release the funds as the officer requested, is
12 that right?

13 MR. MARDER: Objection, form.

14 A. Yes.

15 Q. I think that was a yes, is that right?

16 A. Yes, it would require two people to get into
17 the vault and one being the manager, yes.

18 Q. And that one on March 20th of 2020 was Gail
19 O'Keefe, is that right?

20 A. From what I recall, yes.

21 Q. Okay. When did you learn that Gail O'Keefe had
22 determined that she suspected the -- Sheira Brown's
23 check to be fraudulent?

24 A. I don't recall the exact timing. It was some
25 time that Friday.

1 Q. It wasn't on her initial call to you when she
2 first reported that the police would need to be in
3 contact with you?

4 A. Not that I recall, no. Again, that was a very
5 quick conversation.

6 Q. And it wasn't when the police followed up and
7 did call you about releasing the check, they -- there
8 was no mention about a fraudulent check in that call
9 either, was there?

10 A. Again, I don't recall the specifics, it may be
11 in my memo if you have that. I'm sure I wrote that
12 down. I don't remember him mentioning that
13 specifically, no. He just wanted to get the check out
14 of the vault and asked me if that was possible.

15 Q. Right. So the first two calls you received,
16 the messages of import to you that you recall now, are
17 that the police are involved and that the check needs to
18 be released from the vault the next day, is that right?

19 A. Yes.

20 Q. Let's -- You referenced your report. I think
21 it's a good time to bring that up. We are also at the
22 hour mark now. I'll offer again five, ten minutes if
23 you'd like it.

24 A. I'm okay for now, thank you.

25 Q. Okay. If we can go to Harford Exhibit 18,

1 it'll be Exhibit 3 to this deposition, if we can.

2 (Exhibit 3 on screen)

3 And, Mr. Claffee, you referenced in a
4 couple of points that you've prepared a report. You
5 also reviewed this -- the report with your counsel. I
6 can let 'ya -- we can scroll up and down on this exhibit
7 here to familiarize it with you. But just looking at
8 this first page here is this a copy of the report you
9 prepared in this case?

10 MR. MARDER: Matt, before you ask him to
11 identify the whole thing can you just flip through all
12 of the pages of the exhibit please and go through the
13 Bates numbers also.

14 MR. MC MULLEN: Yes, sir.

15 (Exhibit 3 scrolled through)

16 MR. MARDER: Can you go to the last page?
17 I just wanna see that last Bates number. Thanks. I see
18 the Bates are Harford 18 through 22.

19 Q. (BY MR. MC MULLEN) Mr. Claffee, we just
20 reviewed Harford Exhibits 18 through 22. Is this a true
21 and correct copy of the report that you prepared with
22 regard to the incident on March 19th of 2020?

23 A. Yes, it is.

24 Q. And when did you prepare this report?

25 A. I started it the day after, so March 20th. And

1 as more information was gathered over the coming days
2 and maybe even a week to complete the full memo.

3 Q. When were you able to complete this memo?

4 A. I don't recall the last day I accessed this --
5 this memo and added anything to it.

6 Q. Would you estimate that it took longer than a
7 month to prepare this memorandum?

8 A. No, probably not longer than a month. No.

9 Q. How was this -- well, I read up at the top here
10 it says -- I think it's your signature, B. Claffee, is
11 that right?

12 A. That's me, yes.

13 Q. And it's directed to Mike Allen, president of
14 Harford Bank. Was this memorandum sent to Mike Allen?

15 A. Yes, it was.

16 Q. Was it sent to anyone other than Mike Allen?

17 A. I can't recall if he either asked me to send it
18 to someone else or if he shared it. He asked me to
19 draft it and I sent it to him.

20 Q. Mr. Allen asked you to prepare this report, is
21 that right?

22 A. Yes.

23 Q. Had you prepared a similar report in the past
24 for Mr. Allen about a different incident?

25 A. Not that I recall. At this point I'd only been

1 employed with the bank for three-and-a-half, four
2 months.

3 Q. How did you know to format the report in this
4 fashion?

5 A. I just gathered facts and started typing.

6 Q. No one at Harford Bank told you the format to
7 use when you prepared this report?

8 A. No, sir.

9 Q. Had you ever prepared a report at Harford Bank
10 involving a check deposit in the past?

11 A. At the time of this incident? No.

12 Q. Have you since?

13 A. I don't recall anything specific, no.

14 Q. Have you prepared a report about any incident
15 that you sent to Mike Allen before or after this
16 incident?

17 A. I don't recall exactly. It's possible. I
18 don't recall any specifics, no.

19 Q. Have you prepared any reports involving checks
20 that were suspected of being fraudulent other than this
21 incident?

22 A. Not that I can recall, no.

23 Q. Have you prepared any reports involving
24 allegations that a bank employee has -- well, wherein a
25 bank employee is being accused of racist behavior?

1 A. I'm sorry, what was the first part of the
2 question?

3 Q. Have you ever prepared a report to Mike Allen
4 or anyone at Harford Bank wherein you are describing or
5 reporting an event or an incident involving allegations
6 of racism?

7 A. No.

8 Q. I'll turn to your report here.

9 MR. MC MULLEN: Let's go to -- if we can
10 scroll down to where it says incident began around 5
11 p.m. that will be the next page. (Document scrolled).
12 That'll do.

13 Q. I'll read the report to you, Mr. Claffee, and
14 if you can help me understand the report a little
15 better. It says you determined that the incident began
16 around 5 p.m. March 29th, 2020 at the Joppa branch
17 drive-thru. Does that sound familiar?

18 A. Yes.

19 Q. And you also wrote that Sheira Brown presented
20 a check to be cashed by Jasmine. I assume that's also
21 Jasmine Brown, is that right?

22 A. Yes.

23 Q. You write, Jasmine is -- or I'm sorry. You
24 write, Sheira is not a known person to the bank nor is
25 she a customer. Can you explain the significance of the

1 phrase Sheira is not a known person to the bank?

2 A. So she's not a customer, meaning she does not
3 have an account here, nor is she a person who regularly
4 frequents the branch to perhaps cash checks. So there
5 are people who are not customers who we do see on a
6 regular basis. She was not one of those -- one of those
7 people either.

8 Q. Is another way to characterize that she's not a
9 person that anyone at the branch recognized?

10 A. Sure.

11 Q. Is that factor -- Is that material to a
12 determination whether the check is fraudulent or not?

13 A. It's material because we ask for ID in order to
14 cash a check for someone who is not a customer, meaning
15 they don't have a bank account with us.

16 Q. Is there a policy at Harford Bank that asks
17 that employees recognize the customer personally?

18 A. It's in our check cashing policy when we need
19 to request ID to cash a check.

20 Q. I understand when you need to request ID. But
21 is it significant and in that policy is it described
22 that a person -- that the employee should recognize or
23 not recognize the customer?

24 A. I don't know that it's in a policy but that's a
25 common practice. We wanna get to know all of our

1 customers who come in on a regular basis.

2 Q. It has nothing to do, though, with whether a
3 check is fraudulent or not, isn't that right?

4 MR. MARDER: Objection, form.

5 A. Right, those are two separate issues.

6 Q. Why is it noted in this report?

7 A. The statement about not being a known person
8 nor being a customer?

9 Q. That's right.

10 A. I think it's relevant because we ask for ID in
11 order to cash this check.

12 Q. How is that relevant to whether you ask for an
13 ID?

14 A. Well, because the -- we need to verify the name
15 on the check is the person who is trying to cash it.

16 Q. But isn't that information -- I just -- how is
17 it relevant whether the bank teller recognizes the
18 customer when it comes to asking them for ID?

19 A. If -- If you come to the bank every week to
20 cash a paycheck you are a known person to the bank.
21 They would not be asking for that person's ID every
22 single week, unless perhaps it was a floating teller who
23 had never been to that branch and does not know that
24 person. So it's relevant to the check cashing policy
25 procedure if I don't know who this person is we need to

1 identify them by asking them for ID before we cash the
2 check.

3 Q. Okay. And so what I understand your testimony
4 to be is that there are exceptions to checking for ID.
5 And that exception is when you recognize the customer?

6 A. If it's a known person to our employee, yes.

7 Q. Is that written down in Harford Bank policy?

8 A. I don't -- I don't know exactly what is in the
9 check cashing policy in relation to that.

10 Q. Okay. Let's see if we can take a look at the
11 check cashing policy. It'll be -- I think it's gonna be
12 Harford number 2. And, Brian, I'll just show that to
13 you. If it's not the policy we're looking for we'll
14 find the other policy. Before we go on too far into
15 this exhibit, Mr. Claffee, is this the policy -- does
16 this appear to be the policy that you're identifying?

17 A. Right now it's too small, I can't read it
18 but --

19 Q. We can zoom in.

20 MR. MARDER: And, Matt, are you marking
21 this as an exhibit?

22 MR. MC MULLEN: Not yet. I just wanna
23 make sure we're on the right page here.

24 A. Yes, I -- I believe that to be our current
25 process in 2020, yes.

1 Q. Okay. Mr. Claffee, can you tell me what we're
2 looking at when we look at this exhibit?

3 A. This is the check cashing and withdrawal
4 guidelines that we teach in our training process for
5 tellers.

6 Q. Thank you.

7 MR. MC MULLEN: I will mark this, I think
8 it's -- correct me if I'm wrong -- we're on Exhibit 4
9 now.

10 THE REPORTER: I think that's right.

11 MS. TYROCH: That should be correct, Matt.
12 That should be Exhibit 4. And this is Bates 000002 to
13 same sequence 03.

14 MR. MC MULLEN: Let's zoom back into these
15 two -- these two charts here.

16 Q. (BY MR. MC MULLEN) And just to clarify,
17 Mr. Claffee, I'll let you review this. I'm not seeing
18 an exception for incidents wherein a customer
19 recognizes -- is recognized by an employee but I may be
20 missing it. If you can, just review and let me know
21 where that would be.

22 A. Can you -- Can you zoom in a little bit more,
23 please.

24 (Exhibit 4 zoomed in on)

25 Q. And, Mr. Claffee, please feel free to let us

1 know where -- where we need to move and -- and how far
2 in we need to zoom at any point.

3 A. And I'm sorry, what is your question now?

4 Q. Where does this policy tell us that if an
5 employee recognizes the customer that ID is not required
6 for cashing a check?

7 A. That specific statement I don't -- I don't see
8 in this procedure, no.

9 Q. This procedure doesn't have that exception, is
10 that accurate?

11 A. Right. I'm looking under both account holder
12 guidelines and non-account holder guidelines.

13 Q. Would Ms. Brown -- Ms. Sheira Brown be a
14 non-account holder?

15 A. She is a non-account holder, correct.

16 Q. We have -- This is the procedure or the policy
17 that was provided in discovery to us from Harford Bank.
18 Some of the items that are in black up there --

19 A. Yeah.

20 Q. -- are a little difficult to read. I think
21 down here at the bottom it says acceptable information,
22 here right before where it says primary. Do you see
23 what I'm referring to there?

24 A. Yes.

25 Q. Are you able to -- to summarize how someone

1 should read this -- this guideline in general? In other
2 words, what are these different box categories, can
3 you -- can you familiarize us with the -- with this
4 document?

5 A. Just reading under -- under the first column
6 primary it would mean that to mean primary
7 identification, being a US drivers license, passport,
8 state ID card, military, or alien registration card.
9 That -- Those are acceptable forms of ID when validating
10 the person cashing the check.

11 Q. Excellent. So safe to say we can't exactly
12 read what it says above primary, but it likely says
13 acceptable identification, is that fair to say?

14 MR. MARDER: Objection, form.

15 A. I can't read it but that seems reasonable.

16 Q. And in any event, whether it says that or not,
17 what it's identifying is acceptable forms of
18 identification for bank tellers, is that right?

19 A. Yes, it references one form of primary ID in
20 the box above.

21 Q. Right.

22 A. The primary indicates what those are, yes.

23 Q. And so when we say primary this is not -- my
24 understanding, and you can correct me if I'm wrong --
25 this is not an exhaustive list, but these are five of --

1 of the most common types of primary identification, is
2 that accurate?

3 A. They are definitely five of the most common and
4 -- and acceptable for a primary form of ID.

5 Q. And over to the right it says identification
6 should validate the following. It says name, address,
7 date of birth, signature, physical appearance. Is that
8 right?

9 A. That's what it says.

10 Q. And so what -- when a person provides their ID
11 the teller is instructed to look at those five factors
12 and confirm whether they're present, is that accurate?

13 A. Yes.

14 Q. Explain why physical appearance is relevant.

15 A. I'm not gonna speculate. If you're looking at
16 a drivers license and the person in front of you, can
17 one reasonably assume that it's the same person?

18 Q. You check the photo ID, you look at the person
19 and if it looks like the person, is that generally what
20 this is asking?

21 A. Yes, along with their name, address, date of
22 birth and signature, yes.

23 Q. Right. Are there any other specifications in
24 any Harford Bank policy as to what a teller or branch
25 employee should look for when determinating if a person

1 resembles their physical appearance in the ID?

2 A. No.

3 Q. That is up to the teller themselves or the
4 employee themselves, is that right?

5 A. It's up to the person who is interacting with
6 that customer.

7 Q. Does Harford Bank train employees as to how to
8 identify whether an individual matches their ID?

9 A. Other than following this guideline like in a
10 training procedure not that I'm aware of, no.

11 Q. So it's up to the individual to figure out what
12 features to look for, for example?

13 A. Define features.

14 Q. Well, would you agree that physical appearance
15 includes facial features?

16 A. It could, sure.

17 Q. Would it include hairstyles?

18 A. It should -- it could, yes.

19 Q. And you would agree that customers' hairstyles
20 could change, for example?

21 A. Of course.

22 Q. And so my question is is there any training
23 from Harford Bank as to identify whether a person's
24 change in appearance is either commonplace or rises to
25 the level that we can't identify them any more?

1 MR. MARDER: Objection, form.

2 A. Not that I'm aware of, no.

3 Q. Let's see. Now, in the third column here what
4 are we looking at next to identification should
5 invalidate the -- or should validate the following.
6 What is this third column referencing?

7 A. Again, I -- I cannot read what is in the black
8 bar above that. Does -- Does anybody know what that
9 says?

10 Q. I'll make a suggestion, you can tell us if it
11 looks consistent with what you're seeing. It looks like
12 characteristics of a counterfeit.

13 A. Okay.

14 MR. MARDER: Objection, form.

15 Q. Can you review that third column there and let
16 me know if those factors are consistent with this
17 document referencing -- intending those factors to be
18 characteristics of a counterfeit.

19 A. Yes. So the endorsement, the signature, the
20 inconsistent font throughout the item, the check number
21 doesn't match the check number located in the maker
22 line, misspelling of our bank name or the account holder
23 name, the address. Those are all considered
24 characteristics that could indicate a counterfeit check,
25 yes.

1 Q. And so employees of Harford Bank are instructed
2 to look at these characteristics of a counterfeit as
3 potential signs that the check may be fraudulent, is
4 that accurate?

5 A. Yes.

6 Q. Okay. I'd like to table this exhibit and then
7 return back to your -- your report that we may return to
8 that policy and -- and generally speaking, if you need
9 to refer to it just let me know.

10 MR. MC MULLEN: If we could return to -- I
11 can't recall our ex -- deposition exhibit but I'm
12 looking for the report, yeah.

13 MR. MARDER: Number 3.

14 MR. MC MULLEN: Thank you, sir.

15 (Exhibit 3 on screen)

16 Q. (BY MR. MC MULLEN) In the picture -- This
17 report indicates Sheira is not a known person to the
18 bank. Who provided you with that report, the fact that
19 Sheira was not known to the bank?

20 A. I can't recall whether it was Gail or Jasmine
21 who gave me that information.

22 Q. So --

23 A. They were both -- they were both there at -- at
24 the same time.

25 Q. Fair to say either Gail O'Keefe or Jasmine

1 Brown reported to you that Sheira was not known to
2 either of them, is that accurate?

3 A. Yes.

4 Q. And as we identified in the policy we just
5 reviewed, that would not create an exception to whether
6 she should be asked for ID, at least under the policy,
7 is that right?

8 A. I'm sorry, could you -- either rephrase that or
9 repeat that.

10 Q. The policy we just reviewed, which has been
11 marked as Exhibit 4, does not tell us why this statement
12 that Sheira was not known to the bank is important to
13 note, is that true?

14 A. Correct.

15 Q. It goes on to say the picture on ID didn't
16 match in her opinion, and there were several small red
17 flags on the check such as mismatched font types and
18 sizes, the written amount was shortened, it was a month
19 old and Sheira was from Owings Mills, an hour south of
20 the bank's trade area -- area. Jasmine was suspicious
21 and asked for manager to review it. I'll turn to that
22 last sentence, Jasmine was suspicious. I interpret, and
23 correct me if I'm wrong, that that statement means that
24 Jasmine was sus -- suspected something of the check or
25 of Sheira, is that right?

1 A. Yes. One or the other, yes.

2 Q. In other words, it doesn't mean Jasmine herself
3 was the suspicious individual, is that right?

4 A. Correct.

5 Q. And the manager that she is asking to review
6 this document is -- is Gail O'Keefe, is that right?

7 A. That's correct.

8 Q. Okay. I wanna break down each of these factors
9 that -- that are being identified here, but this entire
10 paragraph we just read -- before we get into that, all
11 of these factors were either identified by Gail O'Keefe
12 or Jasmine Brown, is that right?

13 A. That's correct.

14 Q. Were any of these factors identified by only
15 Jasmine Brown but with which Gail O'Keefe did not agree?

16 A. I was not there. I can't answer that.

17 Q. You have no information to suggest that Gail
18 O'Keefe doesn't agree with everything in this paragraph,
19 do you?

20 A. No, I do not.

21 Q. We'll look first, it says the picture on ID
22 didn't match. I assume that means her -- her physical
23 appearance, is that right?

24 A. That's what I take that to mean, yes.

25 Q. And it's in her opinion. The her being

1 referenced there is Jasmine Brown?

2 A. Yes.

3 Q. First I want to remind ourselves we agree,
4 though, that the -- as it turns out and as your
5 investigation turned -- turned up, as well as the police
6 investigation, that the person identified or the person
7 we see in the -- the ID photo and the person who
8 actually presented to Sheira Brown who presented herself
9 to Harford Bank, those are, in fact, of the same person.
10 We can agree on that?

11 A. Yes.

12 Q. So we can agree that this opinion offered by
13 Jasmine Brown and Gail O'Keefe that Sheira Brown is not
14 the person in this ID, those are incorrect opinions?

15 A. We -- Well, it turned out to be a fact that it
16 is the same person.

17 Q. That's right. So when Jasmine Brown said this
18 is not the right person or she suspected it she was, in
19 fact, wrong?

20 A. Correct.

21 Q. And so we now know factually that the image of
22 -- well, that Sheira Brown and the image on this ID are
23 one and the same person. We can agree on that?

24 A. Yes.

25 Q. Do you agree -- And your report here up at the

1 top has an image of Sheira Brown next to the photo ID.

2 Do you see that?

3 A. Yes. The image on the right, yes.

4 Q. And is that a screen capture of video footage?

5 A. Yes, it is.

6 Q. When was that video footage taken?

7 A. The footage was from the evening of the 19th.

8 Q. And so it's included in this report I -- I

9 deduct it's been included as a way to juxtapose

10 Ms. Brown's appearance on the 19th with her photo ID, is
11 that right?

12 A. Yes, because Jasmine's opinion was they did not
13 match so I put them both on this report.

14 Q. I'll let you review the photo ID we have here
15 and the image that was provided in this report of
16 Ms. Brown on -- on March 19th of 2020. Do you believe
17 that these two faces do not match?

18 A. I could go either way. Looking at them very
19 quickly there are things that you could look at,
20 specifically the hair, that does not match.

21 Q. Okay. You've identified the hair. How does
22 the hair not match?

23 A. It appears to me the image on the left, on the
24 drivers license, the hair is white and curly. That does
25 not match the image on the right.

1 Q. Does that image on the left appear to be a wig?

2 A. I would have no idea.

3 Q. In what other ways does the image on the left
4 not match with the image on the right?

5 A. Nothing else specifically that I can see.

6 Q. Right. Her eyes match, right?

7 A. The rest of her face is close enough, yes.

8 Q. The only distinguishing characteristic, in
9 other words, between the left image and the right image
10 is that her hair is different, is that correct?

11 A. In my opinion, yes.

12 Q. Right. We can't identify looking at these two
13 images what else might have been different, is that
14 right?

15 MR. MARDER: Objection, form.

16 A. That's right.

17 Q. And, in fact, Gail O'Keefe nor -- well, Gail
18 O'Keefe did not tell you in what ways they didn't match,
19 did she?

20 A. She did not.

21 Q. Gail O'Keefe did not tell you which particular
22 feature she felt was this -- the reason she didn't think
23 these two things matched, is that right?

24 A. She did not.

25 Q. Did Jasmine Brown provide any information to

1 you?

2 A. Which information, what -- what she thought did
3 not match?

4 Q. Yeah, I'll clean that question up for you.
5 Jasmine Brown, like Gail O'Keefe, did not identify for
6 you why she felt the image on the left and the image on
7 the right did not match?

8 MR. MARDER: Objection, form.

9 A. No, I just wrote down in my memo that she said
10 that the picture didn't match in her opinion. That's
11 all I wrote.

12 Q. Right. She didn't provide you with the
13 information as to why they didn't match in her opinion,
14 right?

15 A. That's right.

16 Q. And if it -- if she had you likely would have
17 included it in your report?

18 A. If she gave me specifics yes, I would've.

19 Q. But she did not give you specifics, correct?

20 A. Correct.

21 Q. We did not see -- We just reviewed the Harford
22 Bank policy as to identifying -- taking a look at an ID
23 to determine whether the ID itself is counterfeit --
24 well, let me -- and you can clarify for me. The portion
25 of that exhibit that we looked at identifying

1 counterfeit, that had to do -- or counterfeit items,
2 that had to do with checks, right, that didn't have to
3 do with ID. Am I correct about that?

4 A. Yes, the items in the right-hand column that
5 talk about counterfeit, that's correct.

6 Q. And it's not anyone's allegation here, I don't
7 believe, that the ID itself that we see in this report
8 is itself counterfeit, right?

9 A. No.

10 Q. It goes -- The report goes on to say, there
11 were several red flags on the check such as mismatched
12 font types and sizes. And I believe actually in this
13 report we have -- lower down we have an image of the
14 check there.

15 MR. MC MULLEN: If we could zoom in on
16 that check, please.

17 Q. (BY MR. MC MULLEN) Focusing on mismatched font
18 types and sizes, please identify for us where you see
19 mismatched font types.

20 A. Or more specifically the size. So the name
21 paid to the order of Sheira Brown is a much larger. I
22 can't tell if it's a different font, I'm not an expert
23 in fonts, but Sheira Brown is larger than the row below
24 it, ninety and 94/100.

25 Q. And that's a -- a difference in the size,

1 correct?

2 A. Yes.

3 Q. So the report identifies mismatched fonts,
4 types and sizes. Is it your testimony that it's only
5 mismatched sizes?

6 A. No, I'm not a font expert but the font for Pay
7 To The Order Of and the line below this amount do not
8 appear to be the same font.

9 Q. The Sheira Brown up at the top right above 90
10 and 94/100 and Sheira Brown at the bottom, you think
11 those are two different fonts?

12 A. Those appear to be the same font just a
13 different size. Her name specifically.

14 Q. Right. And the number over in the right where
15 it says numeral 90.94, is that a different font type?

16 A. It looks different to me. Again, it's hard to
17 tell. That one's bolded and it's a little bit larger.

18 Q. Right.

19 A. The ninety and the 94, the written words.

20 Q. We can't determine that this is a different
21 font type, though, from looking at it, can we?

22 MR. MARDER: Objection, form.

23 A. I cannot determine that, no.

24 Q. And the Harford Bank employees don't have
25 additional training that you do not have in terms of

1 identifying font types do -- do they?

2 A. No, they don't.

3 Q. Gail O'Keefe wouldn't have had that type of
4 training to your knowledge?

5 A. No.

6 Q. It's very possible from looking at this check,
7 at least in your opinion, that all of the font types
8 here are the same but there are different sizes and
9 perhaps some of them are in bold, isn't that true?

10 MR. MARDER: Objection, form and
11 foundation.

12 A. That's my opinion today, yes.

13 Q. Thank you. It goes on to your report -- I'm
14 sorry, it goes on to say, the written amount was
15 shortened. Is that because underneath Sheira Brown it
16 says 90 and 94/100?

17 A. I believe that's what she was referencing, yes.

18 Q. That isn't in Harford Bank's policy to
19 identify, is it?

20 A. Well, it's one of the things that you should be
21 looking at.

22 Q. Let's take a look back at the policy that was,
23 I believe, marked as Exhibit 4 to this deposition.

24 (Exhibit 4 on screen)

25 I don't identify in this policy where it

1 says that a shortening of the description of the amount
2 of the check is a factor to be considered -- considered
3 when looking at characteristics of a counterfeit. Do
4 you see anything in your policy, in Harford Bank policy
5 to identify that?

6 A. It's not that specific, no. It's just the
7 amount of the check. And the amount of the check is in
8 two places.

9 Q. So, for example, if the amount of the check
10 differs in the two different places, that could create
11 an issue or raise a red flag, right?

12 A. Absolutely.

13 Q. In Sheira Brown's case this check does not have
14 two different amounts, does it?

15 A. They're not different amounts, no.

16 Q. And where it indicates a number where you
17 traditionally would on a check it indicates a number, is
18 that right?

19 A. On the right-hand side of the check with the
20 dollar sign?

21 Q. Correct.

22 A. That's a number, correct.

23 Q. And where it indicates the written roman
24 description of the check amount that's where you would
25 traditionally write that in that fashion, is that right?

1 A. You write the full worded amount of the check,
2 yes.

3 Q. So those two things are not equal in your
4 experience in retail banking on customer checks?

5 MR. MARDER: Objection, form.

6 A. We see all sort of different ways in which
7 people write them. I personally have not written checks
8 for -- for years but some people will write the word
9 dollars, some people won't. But as long as the two --
10 the -- the written description and the number match
11 that's what we need to verify.

12 Q. Exactly. The -- What -- What we notice here --
13 well, actually, let's return back to your report, if we
14 could.

15 MR. MARDER: And, Matt, whenever it's a
16 good time for a break I'd like to take one.

17 MR. MC MULLEN: I would too. Thank you
18 for bringing it up. It is a good time now. We can
19 certainly do that now. Say ten minutes.

20 MR. MARDER: Sounds good. Okay, thank
21 you.

22 VIDEOGRAPHER: Okay, we're off the record.
23 The time is 11:37 a.m. eastern time.

24 (Recess from 11:37 to 11:52

25 VIDEOGRAPHER: Okay, we are back on the

1 record. The time is 11:52 a.m. eastern time.

2 MR. MC MULLEN: We can go back to Harford
3 No. 2.

4 (Document on screen)

5 Q. In this -- Mr. Claffee, in this document where
6 do we see --

7 MR. MC MULLEN: Well, actually if we could
8 go up to the -- pull up to the corner of this, the top
9 right-hand corner. I'm sorry, down a little bit here
10 where it says number 4 it'll say any item or combination
11 of items over employees check cashing limit.

12 Q. (BY MR. MC MULLEN) Mr. Claffee, in this
13 instance I can't read what's above that. But it says
14 any item or combination of items over employees check
15 cashing limit. And then it says items are stale dated
16 or post dated. Do you have an idea what the
17 significance of those two items might be in the context
18 of this -- of these guidelines?

19 A. Sure. We have check cashing limits by
20 position. So, for instance, a brand-new teller would
21 have a lower limit to cash checks and would need to
22 refer it to your supervisory, I believe that's what
23 number 4 in the black says. If it was over their check
24 cashing limit they would refer it to the supervisor.
25 Items that are stale dated. If a check is -- is old,

1 written a long time ago or if it's post dated where
2 someone was trying to cash a check dated Friday and
3 today's Wednesday.

4 Q. So let's go in order there. Any -- The
5 employees check cashing limit, was that a contributing
6 factor in any way to the March 19th, 2020 incident
7 involving Sheira Brown?

8 A. It would not be for a check for \$90, no.

9 Q. Right. In other words, that is -- that
10 particular section about, in this case, Jasmine Brown's
11 check cashing limit would not have the reason that Gale
12 O'Keefe was reviewing the check in this case, is that
13 right?

14 A. That's correct.

15 Q. What does it mean to have a check be stale
16 dated?

17 A. Generally a check that is written six months
18 ago would be considered stale dated. And we may refer
19 them back to the maker to get a new check.

20 Q. And usually checks have an indication on them
21 that, you know, if it's more than 180 days since this
22 was written you're -- the check is expired, is that
23 right?

24 MR. MARDER: Objection, form.

25 A. Some checks do yes, not all.

1 Q. Is the general guideline that -- that stale
2 dating is -- is 180 days or six months?

3 A. Generally speaking, yes.

4 Q. It is not common, however, that a check that's
5 one month old is stale dated, is that right?

6 A. Not unless stated on the check, no.

7 Q. It would be unusual circumstances, fair to say,
8 that a check is stale dated after only a month?

9 A. That' s correct.

10 Q. Post dated means the check is dated for the
11 future, is that right?

12 A. Yes, that's correct.

13 Q. Okay.

14 MR. MC MULLEN: And zooming back out just
15 on this entire first page here.

16 Q. (BY MR. MC MULLEN) Is there any other item
17 that you see on this policy or this guideline that
18 indicates the date of the check as an indication that
19 the check may be fraudulent?

20 A. No, sir.

21 Q. In fact, the -- the guidelines of Harford Bank
22 do not indicate that the date of the check is
23 dispositive on whether the check is fraudulent?

24 A. That's correct.

25 Q. Also, these guidelines do not indicate that the

1 customer's home address is dispositive as to whether the
2 check is fraudulent or not? In other words, the
3 distance that the customer lives from that branch, the
4 guidelines at least do not specify that that's an
5 indication the check is fraudulent, do they?

6 A. They do not.

7 Q. And we can return to your report.

8 MS. TYROCH: I'll try again.

9 (Document on screen)

10 Q. Okay, we left your report where we had
11 described the font sizes and the writing on the check.
12 Another factor identified by Jasmine Brown and Gail
13 O'Keefe here, as you wrote, your report states it was a
14 month old. Did I read that correctly?

15 A. That's correct.

16 Q. What's the significance of the check being a
17 month old?

18 A. Other than it being odd, that's all.

19 Q. The guidelines that Harford Bank provides to
20 its employees do not indicate that a month old check is
21 an indication of counterfeit, is that correct?

22 A. That's correct.

23 Q. In what way is it odd?

24 A. Just that most people don't wait a month to
25 cash their check, that's all. I can't speculate as --

1 as to what Jasmine was thinking. That's my opinion
2 based on what she said.

3 Q. Okay. And so other than your belief that most
4 people don't wait that long, is there any other reason
5 that waiting a month is odd?

6 A. No.

7 Q. It indicates pay date on the check here, it
8 says February 20th of 2020, is that right? Up in the
9 top right corner of the check?

10 A. Yes.

11 Q. That's when -- we presume that's when this
12 check was printed, it's not necessarily when Ms. Brown
13 received it, isn't that right?

14 MR. MARDER: Objection, form.

15 A. Yes, normally that's when the check is printed.

16 Q. How often -- Well, why isn't a month old check
17 an indication of counterfeit?

18 MR. MARDER: Objection, form.

19 A. As we talked about earlier, unless it states on
20 the check good for 30 days it would not be -- it
21 wouldn't be stale dated being a month old.

22 Q. Right. And it's also not an indication of
23 fraud at least under the drafting of this policy of
24 Harford Bank, isn't that right?

25 A. That's correct.

1 Q. And so in the wisdom of Harford Bank that would
2 not be an indication of counterfeit or at least not
3 important enough to identify in its guidelines, is that
4 right?

5 MR. MARDER: Objection, form.

6 A. Not in and of itself, no.

7 Q. In combination with what would a month old
8 check be an indication of counterfeit or fraud?

9 A. It was just one of the things -- one of the
10 numerous things that Jasmine and/or Gail indicated they
11 looked at when they looked at this check to determine
12 that it was possibly a fraudulent check.

13 Q. Well it's not -- The date of the check is not
14 indicated on the guidelines, right?

15 A. No.

16 Q. Well it's not indicated on any policy of
17 Harford Bank isn't it -- is it?

18 A. No.

19 Q. If it's a factor to be considered in
20 determining if a check is fraudulent or counterfeit, why
21 isn't it on a Harford Bank policy?

22 A. I can't answer that question. I didn't write
23 the policy.

24 Q. Right. If you were consulting with, as you
25 indicated, you occasionally consult on bank policies.

1 If you were to be asked to do that in this case what
2 would you tell them about a check that's a month old?
3 Is it a -- is it a dispositive factor when determining
4 if a check is fraudulent or counterfeit?

5 A. Not unless the check indicated that it should
6 be cashed within 30 days. I think stale dated in our
7 policy is just perfectly fine.

8 Q. The other thing mentioned on this report is
9 that Sheira Brown was outside of the Joppa location
10 trade area, is that right?

11 A. That's correct.

12 Q. It actually notes her neighborhood. It says
13 she is from Owings Mills. Are you familiar with that
14 neighborhood?

15 A. I know generally where Owings Mills is, yes.

16 Q. Who identified to you that -- well, did either
17 Jasmine Brown or Gail O'Keefe identify to you that
18 Owings Mills was Jasmine's neighborhood?

19 A. I believe that's her address on the -- her ID.

20 MR. MC MULLEN: And I -- the reason I ask
21 is this is, Scott, I believe purporting to be a report
22 prepared by the reasons that Gail O'Keefe and Jasmine
23 Brown thought this check was fraudulent.

24 Q. (BY MR. MC MULLEN) So they told you that that
25 was a factor they considered, isn't that true?

1 MR. MARDER: Objection, form.

2 A. I was just taking down all of the facts that
3 they presented to me why they looked at this check --

4 Q. Right.

5 A. -- correct.

6 Q. It's not significant to you one way or the
7 other that she's from Owings Mills, that's -- you are
8 simply reciting what either Gail O'Keefe or Jasmine
9 Brown told you about the things they considered when
10 determining this check was fraudulent, is that accurate?

11 MR. MARDER: Objection, form.

12 A. Yes.

13 Q. We -- We covered this earlier. The bank does
14 not prefer only to do business with folks outside it's
15 trade area -- or inside its trade area, is that
16 accurate?

17 A. Prefer is an interesting way to put it. I
18 don't think we would turn away business if someone
19 wanted to come open an account and they wanted to drive
20 a half hour to each one of our branches, if that's what
21 you're talking about.

22 Q. Is it cause for concern that a -- that a
23 customer from Owings Mills comes to the bank in Joppa to
24 cash a check?

25 A. In and of itself, no.

1 Q. And, in fact, would it -- independently that --
2 that raises no concern whatsoever to you, does it?

3 A. No.

4 Q. Have you been to Owings Mills?

5 A. Yes.

6 Q. And I assume you've been to Joppa as well?

7 A. Yes.

8 Q. Are you familiar with the racial demographics
9 in Joppa --

10 A. No.

11 Q. -- of the population? Are you familiar with
12 the racial demographics in Owings Mills?

13 A. No.

14 Q. I believe we have some data on that. Let's --

15 MR. MC MULLEN: Leslie, if we can look at
16 the demographics of Joppa first.

17 MR. MARDER: Are you marking this as an
18 exhibit?

19 MR. MC MULLEN: Yes, please.

20 MS. TYROCH: I believe this will be
21 Exhibit No. 5 to be titled Joppa demographics.

22 Q. (BY MR. MC MULLEN) Mr. Claffee, this chart
23 shows that Joppatowne -- and Joppatowne is -- is what
24 we're referring to when we say the Joppa location, is
25 that right Mr. -- Mr. Claffee?

1 A. Yes.

2 Q. The population is approximately 13,668. Does
3 that sound consistent with your knowledge of the area?

4 MR. MARDER: Objection, form and
5 foundation.

6 A. I really have no idea.

7 Q. But you don't have any independent knowledge
8 that Joppatowne has a population of roughly 13 to
9 14,000?

10 MR. MARDER: Objection, form and
11 foundation.

12 A. Not until I just saw this graph and -- and you
13 showed it to me, no.

14 Q. But you don't have any reason to think this is
15 inaccurate, do you?

16 MR. MARDER: Same objection.

17 A. No, I do not.

18 MR. MC MULLEN: If we can go to the racial
19 demographics.

20 Q. (BY MR. MC MULLEN) Now, Mr. Claffee, at least
21 according to this source of information Joppatowne has a
22 population which is 79.49 percent White and a
23 14 percent -- 14.77 percent Black or African American.
24 Assuming this is an accurate representation of the
25 demographics -- Well, first of all, did I read that

1 correctly?

2 A. Yes.

3 Q. Fair to say that if this source of information
4 is accurate and, in fact, Joppatowne has a population of
5 79.49 percent White folks, it's fair to say that
6 Joppatowne is a predominantly White area, isn't that
7 true?

8 MR. MARDER: Objection, form and
9 foundation.

10 A. If that's what the data says then yes, I agree.

11 Q. Right. And we can look at the same data for
12 Owings Mills.

13 MR. MC MULLEN: If we can pull that up
14 that'll be the next exhibit.

15 MS. TYROCH: We'll submit this as Exhibit
16 6 titled Owings Mills demographics.

17 (Exhibit 6 on screen)

18 Q. And it's the same representation to you,
19 Mr. Claffee. These are -- purport to be demographic
20 information for the Owings Mills neighborhood. We can
21 see here that according to this chart that neighborhood
22 has a populate -- a Black population or African American
23 population of, at least as of 2020, 59.47 percent. Is
24 that accurate?

25 MR. MARDER: Objection, form and

1 foundation.

2 A. You read that correctly, yes.

3 Q. And so we can also assume that this data is
4 accurate, that we would -- it would be fair to
5 characterize Owings Mills as a predominantly Black
6 neighborhood, isn't that true?

7 MR. MARDER: Objection, form and
8 foundation.

9 A. If that's what the data says then yes, it
10 appears so.

11 Q. Right.

12 MR. MC MULLEN: We can pull that -- pull
13 that down.

14 Q. So we can agree then as it pertains to factors
15 that Gail O'Keefe and Jasmine Brown identified, of those
16 primary factors in determining that Sheira Brown's check
17 was fraudulent two factors appear. Isn't the first
18 factor that Sheira -- Sheira Brown's appearance, would
19 you agree?

20 MR. MARDER: Objection, form.

21 A. Yeah, and you cut out. I did not hear the
22 whole question, sorry.

23 Q. Sure and -- if I cut out I'll restate it. We
24 agree that there were two -- at least two primary
25 factors in Gail O'Keefe's and Jasmine Brown's

1 determination that Sheira Brown's check was fraudulent,
2 can we agree?

3 MR. MARDER: Objection, form.

4 A. Those were two of the things that we mentioned
5 that I put in my memo, yes.

6 Q. One of them was Sheira Brown's appearance,
7 correct?

8 A. Yes.

9 Q. And one of them was the fact that Sheira Brown
10 was not from the neighborhood where the Joppa branch was
11 located?

12 A. Yes.

13 Q. And, in fact, Sheira Brown was from a
14 predominantly Black neighborhood, isn't that true?

15 MR. MARDER: Objection, form and
16 foundation.

17 A. I don't know that to be certain.

18 Q. If the data that we provided you is true and
19 Sheira Brown is, in fact, from Owings Mills, Sheira
20 Brown is, in fact, from a predominantly Black
21 neighborhood, isn't that true?

22 MR. MARDER: Objection, form and
23 foundation.

24 A. Yes, if she lived in Owings Mills and that data
25 supports that then yes, I agree.

1 Q. And if the data we provided you is true and --
2 well, if the data provided -- we provided you is true
3 Joppa is, in fact, in a predominantly White
4 neighborhood, isn't that true?

5 MR. MARDER: Same objection.

6 A. Yes.

7 Q. Are you aware of whether Ms. Brown's employer
8 is from the Joppa area?

9 A. Her -- Where she worked?

10 Q. Correct.

11 A. I believe it's in or near Owings Mills.

12 Q. From the report you -- we've looked at today it
13 doesn't specify whether Gail O'Keefe or Jasmine Brown
14 asked Sheira Brown why she was using the Joppa location,
15 does it?

16 A. If it's not in my commentary then no.

17 Q. So based on your report we have no information
18 that either of them asked her why she was using that
19 branch location, do we?

20 MR. MARDER: Objection, form.

21 A. Not that I'm aware of, no.

22 Q. Were there other factors that -- that Gail
23 O'Keefe and Jasmine Brown could have looked to to verify
24 whether the check was, in fact, fraudulent?

25 A. The physical check?

1 Q. Correct.

2 A. I don't think so.

3 Q. Could they have asked Sheira Brown for more
4 information about herself or about the employer to
5 confirm or deny whether the check is fraudulent?

6 MR. MARDER: Objection, form.

7 A. Yes, they probably could have dug further.
8 Yes.

9 Q. In what ways could they have dug further?

10 MR. MARDER: Objection, form.

11 A. They could have asked for the name of her boss
12 and where she worked, assuming that's who wrote the
13 check.

14 Q. And what else could they have asked her?

15 A. That's the most important thing to identify
16 whether this check was valid or not and who wrote it to
17 her.

18 Q. And they didn't do that, did they?

19 MR. MARDER: Objection, form.

20 A. They told me they called our customer who is
21 the owner of the bank account. That's in my report.

22 Q. But they didn't ask Sheira Brown, did they?

23 A. I don't know.

24 Q. And you -- but you didn't write it in your
25 report if they did, did you?

1 A. That's correct.

2 Q. And you would've likely reported that as an
3 important factor when you wrote your report?

4 MR. MARDER: Objection, form.

5 A. Yes, I included all the facts that they told me
6 about, yes.

7 Q. You -- Your intention was to include all of the
8 pertinent and important information when you -- when you
9 generated your report, I assume?

10 A. Yes, of course.

11 Q. The -- You've identified that the Joppa
12 employees involved did not ask Sheira Brown why she was
13 in that location, they did not ask her why -- for any
14 information about her employer. Are those two things
15 true?

16 A. To my knowledge, yes. If they did ask her they
17 did not tell me about it.

18 Q. Right. They also didn't ask her why her hair
19 was different than her ID, did they?

20 MR. MARDER: Objection, form.

21 A. They did not tell me that, no.

22 Q. And we previously identified that that is the
23 only distinguishing characteristic or difference between
24 the ID and Sheira Brown's appearance on that day, isn't
25 that true?

1 MR. MARDER: Objection, form.

2 A. That was my opinion today as we looked at it
3 together, yes.

4 Q. Right. Why did Gail O'Keefe decide to
5 confiscate Sheira Brown's check?

6 MR. MARDER: Objection, form.

7 A. She kept the check after calling our customer
8 Nick who owns the business. And Nick told her to keep
9 the check.

10 Q. What is Nick's last name?

11 A. Kapsis, K-a-p-s-i-s, I believe.

12 Q. Ms. O'Keefe did not actually speak with an
13 individual named Sam Fakhoury -- and I'll provide the
14 spelling, I'm not sure if I have his name pronounced
15 correctly, but it's F-a-k-h-o-u-r-y. Are you aware that
16 Gail O'Keefe did not call that individual?

17 MR. MARDER: Objection, form.

18 A. She did not tell me that she called that --
19 that individual, no.

20 Q. Are you aware that that is, in fact, the owner
21 of that restaurant?

22 A. From what I know --

23 MR. MARDER: Objection, form.

24 A. Sorry. From what I know he is not the owner of
25 that location, no.

1 Q. Would he have knowledge as to why the check
2 looks the way it does, as far as you know?

3 A. He may if he cut the checks, yes.

4 Q. Okay. In fact, the following day, isn't it
5 true, that another employee of that same employer was
6 able to successfully cash her check, and that's written
7 in your report, isn't that true?

8 A. That's correct.

9 MR. MC MULLEN: And if we could pull up
10 the report for reference.

11 (Document on screen)

12 MR. MC MULLEN: If you could zoom in to
13 the top where -- where we see the check. I'm sorry, the
14 check that Brittney provided.

15 Q. (BY MR. MC MULLEN) Mr. Claffee, this is also
16 in your report. Can you explain why this is included,
17 Ms. Brittney M. Braiford, it appears to be a check from
18 her. Why is this included in the report?

19 A. Gail sent it to me after Brittney and Sheira
20 both returned to the branch that day and cashed those
21 checks. So she sent us a copy of those as well.

22 Q. And as it turns out Brittney -- Brittney's
23 check appears to be the same font, the same font type as
24 Sheira Brown's check?

25 A. Yes, it does.

1 Q. And so to be clear, there is no policy at least
2 in -- in the policy we've reviewed today or that you've
3 identified for us today that indicates a bank employee
4 should confiscate the check, isn't that true?

5 MR. MARDER: Objection, form.

6 A. In the policy we -- we reviewed together, no.

7 Q. Is there a different policy that would indicate
8 that a -- that a -- an employee should confiscate the
9 check?

10 A. I don't recall. Was there more to that -- that
11 policy, is there a separate page?

12 Q. And I'll -- I'll represent to you I'm not
13 hiding something from you. I'm not aware of any such
14 policy. If you are I'm just asking whether you know.

15 A. Not that I'm aware of, no.

16 Q. If you needed to find out who would you ask?

17 A. I would refer to our policy and procedures.

18 Q. There isn't an individual you would look to?

19 A. No, we would refer to policy and procedure.

20 Q. And as far as you're aware, those policies and
21 procedures have been provided to plaintiff in discovery
22 in this matter?

23 A. Yes, sir.

24 MR. MARDER: Hey, Matt, do you mind if we
25 take a two or three minute break? I apologize.

1 MR. MC MULLEN: Yeah, no problem.

2 MR. MARDER: Thanks, I'll be back --

3 VIDEOGRAPHER: We're off the record, the
4 time is 12:21 p.m. eastern time.

5 (Recess from 12:21 to 12:29)

6 VIDEOGRAPHER: We are back on the record,
7 the time is 12:29 p.m. eastern time.

8 Q. I have some questions about this individual, I
9 think you said his name is Nick Kop -- Kopsis, is that
10 right?

11 A. Kopsis, yes.

12 Q. Kopsis. How did Gail identify that Nick Kopsis
13 was the person they called?

14 A. On the system when you're looking up an account
15 you know who the owners were -- of the account are. And
16 their contact information appears there.

17 Q. And Ms. Gail O'Keefe reported to you that she
18 called Nick -- Nick Kopsis?

19 A. Yes.

20 Q. Is there any way we know what was said by Gail
21 to Mr. Kopsis?

22 A. Other than her word, no.

23 Q. And what was her word as to what she said?

24 A. She told me she asked Nick if he knew who
25 Sheira Brown was. He said no and asked her to hold the

1 check.

2 Q. Was there any other item that she told
3 Mr. Kapsis?

4 A. Not that I'm aware of.

5 Q. Do you know how many employees that restaurant
6 or that company has?

7 A. I do not know.

8 Q. So to summarize, Ms. O'Keefe called Nick Kapsis
9 and asked him if she -- if he knows Sheira Brown and he
10 said no, is that right?

11 A. Yes.

12 Q. Was there any other piece of information Gail
13 told you that she told Mr. Kapsis?

14 A. Not that I'm aware of, no.

15 Q. That was the only factor that she identified to
16 Mr. Kapsis as to whether that check should be
17 confiscated?

18 MR. MARDER: Objection, form.

19 A. I imagine she relayed her name and where the
20 check was written from, which is his account. Does that
21 make sense?

22 Q. And did she identify -- well, how did the topic
23 of con -- confiscation come up? He orig -- he brought
24 it up or she brought it up, what is your understanding?

25 MR. MARDER: Objection, form.

1 A. I don't know the order in which that -- that
2 happened. After she re -- relayed the information to
3 Nick about this check and he said I don't know who that
4 person is, you should probably hold that check or you
5 should hold that check. That's what she told me.

6 Q. Heading back to your report, I think it's on
7 page 2 of your report.

8 (Document on screen)

9 And that's the third marker down. It says
10 at 5:34 p.m. Deputy Corteel called Brian. I assume that
11 is you, Mr. Claffee, the Brian here?

12 A. Yes.

13 Q. He said what could be done to retrieve the
14 check for Sheira since he also called over to the
15 restaurant, and they verified that Sheira was known to
16 have worked at another location they owned in
17 Reistertown, Maryland. Did I read that correctly?

18 A. Yes.

19 Q. What information or what ability to investigate
20 that reality did Deputy Corteel have that Gail O'Keefe
21 did not?

22 MR. MARDER: Objection, form.

23 A. Authority was your word? I -- I think either
24 one of them could've -- could've called.

25 Q. Right, that's what I'm asking. And I apologize

1 if the question was clumsy. In other words, Deputy
2 Corteel had the same access to information that Gail
3 O'Keefe had when she determined that the check was --
4 she believed the check was fraudulent, isn't that true?

5 A. That's --

6 MR. MARDER: Objection, form.

7 A. And that's not completely true because Deputy
8 Corteel would not know who the owner of that bank
9 account is. He would not know who our customer is that
10 we are obligated to.

11 Q. Okay. But Deputy Corteel's representation to
12 Gail O'Keefe that the check was not, in fact, fraudulent
13 was sufficient to release the check, isn't that true?

14 A. The check was not released 'til the next day.
15 And I don't know if there was additional information
16 that Gail went through to verify that these checks were
17 not fraudulent. I assume she -- I can't assume, but
18 she -- she obviously determined that they were real.

19 Q. And you don't have any information about how
20 she determined that?

21 A. I don't know, no. She did not indicate that to
22 me.

23 Q. She didn't provide that to you when you were
24 preparing your report that she -- that she obtained any
25 new information?

1 A. Not that I'm aware of, no.

2 Q. And, in fact, in your report Deputy Corteel's
3 representation that he had done an investigation as to
4 the check, his representation was sufficient for
5 purposes of your report as a justification to return the
6 check to Ms. Brown, isn't that true?

7 MR. MARDER: Objection, form.

8 A. No, 'cause I was not -- I was not there the
9 next day when Sheira came back to cash the check or get
10 the check and Brittney to cash the check so it wasn't
11 that information.

12 Q. How do we determine what information Harford
13 Bank relied upon in determining that the check could be
14 released to Sheira Brown?

15 A. Well, as indicated before the amount on the
16 check fell below the dollar amount threshold in that
17 check cashing policy. So even in the moment she
18 could've cashed it and then followed up later with our
19 customer. That's one option she could've pursued the
20 night of the check.

21 Q. That's right. And so it had always been an
22 option for Gail O'Keefe to -- to release this check to
23 Ms. Brown, isn't that right?

24 MR. MARDER: Objection, form.

25 A. For her to cash the check.

1 Q. Yes, isn't that true, check or cash? I'm
2 sorry. Cash the check or release it to her. Both of
3 those things were an option to Gail O'Keefe on
4 March 19th of 2020, isn't that true?

5 MR. MARDER: Matt -- Matt, in fairness
6 repeat the question. You broke up a little bit.

7 MR. MC MULLEN: I'm sorry.

8 Q. We'll start back over on that. I believe your
9 testimony was that Gail O'Keefe had the option to return
10 the check to Ms. Brown on March 19th of 2020, correct?

11 A. Prior to it being locked in the vault, yes.

12 Q. And she had the option actually to cash the
13 check prior to it being locked in the vault on
14 March 19th of 2020, correct?

15 A. Well, that's true until she called Nick and he
16 asked her to hold the check.

17 Q. And Nick asked her to hold the check, right?
18 Ultimately, though, the check was released to Ms. Brown,
19 isn't that true?

20 A. On the following day, that's correct.

21 Q. And what new information did Harford Bank
22 obtain in order to release the check to Ms. Brown?

23 A. I don't have that information.

24 Q. It's not written in your report, correct?

25 A. That's correct.

1 Q. In fact, the only information that we could
2 interpret as leaning in favor of releasing the check to
3 Ms. Brown is what Deputy Corteel is noted as having
4 investigated here on your report, is that right?

5 MR. MARDER: Objection, form.

6 A. I can't answer that.

7 Q. Why not?

8 A. Well, I was not there the next day. I don't
9 know what Gail or who Gail called or what other steps
10 she took to verify that. That was her decision as the
11 branch manager to release that check or to cash that
12 check the next day.

13 Q. And in your -- And so to be clear, in your
14 report here do you specify at any point why the check
15 could be released out of the vault to Ms. Sheira Brown?

16 A. No, there's nothing in this report that says
17 that.

18 Q. Gail O'Keefe didn't provide you with
19 anything -- any information as to why the check could be
20 released to Ms. Brown?

21 A. Not that I recall, no.

22 Q. And Jasmine Brown didn't provide you with any
23 information as to why the check could be released to
24 Ms. Brown?

25 A. Not that I recall, no.

1 Q. Deputy Corteel, the police officer, did however
2 identify a potential reason why the check could be
3 released to Ms. Brown, isn't that true?

4 A. I only know what he told me. I don't know who
5 he called, who he spoke to or what that conversation
6 was.

7 Q. Right. And if you believed what Deputy Corteel
8 was telling you he told you that the check could, in
9 fact, be released to Sheira because he had verified that
10 Sheira was known to have worked for that restaurant,
11 isn't that true?

12 MR. MARDER: Objection, form.

13 A. That's true. Ultimately that is absolutely
14 true, she worked for that restaurant, yes.

15 Q. Right. And Deputy Corteel was able with his
16 own investigation to confirm that information?

17 A. That's what I documented. Again, I don't know
18 who he spoke with or what that conversation was.

19 Q. Was the check ultimately released to Sheira
20 Brown?

21 A. Yes, the following day when she came back.

22 Q. I believe you touched on this already, but we
23 agree the check that Sheira Brown brought to Harford
24 Bank on March 19th of 2020 was a valid check, right?

25 A. Yes. Excuse me, yes.

1 Q. It was a valid payroll check that Sheira Brown
2 should've been able to cash, isn't that true?

3 A. It was determined it was a valid check --

4 Q. Okay.

5 A. -- yes.

6 Q. And she should've been able to cash it, isn't
7 that true?

8 MR. MARDER: Objection, form.

9 A. Yes, she could've -- she should've been able to
10 cash it.

11 Q. Right. Why did Harford Bank fail to identify
12 that this was a valid check presented by Sheira Brown?

13 A. In the moment all of the indicators that
14 Jasmine and Gail looked at on the check, and the fact
15 that they called our customer who did not recognize the
16 name, and asked us to hold the check, those are the
17 reasons.

18 Q. Right. And those are the reasons -- you wrote
19 up all of the reasons in your report, right?

20 A. I did, yes.

21 Q. And let's summarize those reasons just so I'm
22 not missing any.

23 MR. MC MULLEN: If we can go to the top
24 there.

25 Q. And I'm gonna take notes and I'll show you my

1 notes at the end of this. I think -- I wanna try to
2 identify all the reasons that Gail O'Keefe and Jasmine
3 Brown identified to you just so we can keep them
4 straight.

5 The first reason that I have noted here on
6 your report is that Sheira is not a known person to the
7 bank. Is that the first reason you've identified?

8 A. That's the first reason listed, yes.

9 Q. And whether or not Sheira Brown is a known
10 person to the bank, that factor is not contemplated by
11 any Harford Bank policy that we've identified today,
12 isn't that true?

13 A. Yes.

14 Q. The second factor in this report is that Sheira
15 Brown is not a customer. Is that a -- a factor
16 identified in your report?

17 A. Yes, it is.

18 Q. And whether or not a person is a customer is
19 not indicated in the -- the policy you've reviewed as to
20 whether a check was fraudulent or not, isn't that true?

21 A. No, that is in the policy whether they're a
22 customer or not to pull up their account.

23 Q. Is it a poli -- is it a factor that is
24 determinative as to whether a person -- as to whether a
25 check is fraudulent?

1 MR. MARDER: Objection, form.

2 A. No.

3 Q. And the third factor you've identified is that
4 the picture ID of Sheira Brown, which is in your report,
5 and Ms. Brown's appearance do not match. Is that
6 accurate as the third factor?

7 A. Based on what Jasmine and Gail told me, yes.

8 Q. Okay. And we can agree that the policy does,
9 in fact, ask that that be looked at, whether or not the
10 picture ID matches, right?

11 A. I'm sorry, you said it does indicate that?

12 Q. Yes, it is in the policy --

13 A. Yes.

14 Q. -- to look for that, correct?

15 A. Yes, it is.

16 Q. But what we identified is that the only factor
17 at least you were able to determine was different or the
18 only -- I'm sorry, I'm gonna repeat that because I
19 jumbled it. Earlier in your deposition you testified
20 after having reviewed both of these images the only
21 difference in this -- in these two images that you can
22 determine is that Ms. Brown's hair was different, isn't
23 that true?

24 MR. MARDER: Objection, form.

25 A. That's my opinion today, yes.

1 Q. Okay. The fourth factor is -- as identified in
2 this report is that there were mismatched font types and
3 sizes, is that accurate?

4 A. Yes.

5 Q. We were not able to when you and I reviewed
6 this to identify determinative -- let me -- let me try
7 it again. You and I reviewed the check and we're not
8 able to identify with any reliability whether the font
9 type is, in fact, different?

10 MR. MARDER: Objection, form.

11 A. Yes.

12 Q. We do agree that the font size changes in that
13 check, is that true?

14 A. Yes.

15 Q. The fifth factor we've identified is that the
16 written amount was shortened, is that accurate?

17 A. Yes.

18 Q. But this factor was not identified in the
19 policy as to whether it is determinative that a check
20 may be counterfeit or a fraud, is that true?

21 MR. MARDER: Objection, form.

22 A. Yes.

23 Q. The sixth factor that we've identified is that
24 the check is a month old, is that right?

25 A. Yes, we did.

1 Q. And this factor also was not in Harford Bank's
2 policy as determinative of whether the check is
3 fraudulent or counterfeit, is that true?

4 MR. MARDER: Objection, form.

5 A. In the policy it says stale dated not specific
6 to 30 days or a month, correct.

7 Q. The policy identifies stale dated, correct?

8 A. Yes.

9 Q. But Ms. Brown's check was, in fact, not stale
10 dated?

11 A. It was not.

12 Q. And finally, as a factor it was identified that
13 Sheira Brown is from Owings Mills, is that true?

14 A. Yes.

15 Q. And Sheira Brown's home address or the
16 neighborhood she's from is not indicated in the policy
17 as being determinative of whether the check was
18 counterfeit or fraudulent, is that true?

19 MR. MARDER: Objection, form.

20 A. Yes.

21 Q. Are there any other factors that I did not add
22 in as to Gail O'Keefe and Jasmine Brown's decision to --
23 well, let me -- let me rephrase that. Did I miss any
24 other factors that led to -- or that Gail O'Keefe and
25 that Jasmine Brown specified to you that they -- that

1 caused them to believe that the check was counterfeit?

2 A. No, sir.

3 Q. I'm gonna show you my notes here and I'm going
4 to --

5 MR. MARDER: Matt, can I just jump in?
6 'Cause we're kind of running long. Your notes are not
7 -- are you making your notes an exhibit?

8 MR. MC MULLEN: I am.

9 MR. MARDER: You're making your notes an
10 exhibit?

11 MR. MC MULLEN: The notes I prepared that
12 mimic the testimony of the witness, yes.

13 MR. MARDER: Okay. What exhibit number is
14 that?

15 MR. MC MULLEN: I think we're on 6.

16 MR. MARDER: 7.

17 MS. TYROCH: This will be 7.

18 Q. (BY MR. MC MULLEN) And, Mr. Claffee, I'll give
19 you an opportunity to correct my notes if I've misstated
20 your testimony.

21 (Exhibit 7 on screen)

22 Q. Mr. Claffee, I've done my best to create
23 shorthand notes for the fact -- the seven factors we've
24 identified. And I wanna read them through with you
25 quickly, and then we will highlight which of these items

1 was actually found in the policy. First did I -- I
2 write this correctly, the first factor was that Sheira
3 Brown is not a known person to the bank. This factor
4 was not identified in the policy, is that true?

5 MR. MARDER: Objection, form.

6 A. Yes.

7 Q. The second factor is that Sheira Brown was not
8 a known customer. This factor was also not identified
9 in the policy, is that true?

10 MR. MARDER: Objection, form.

11 A. I believe our policy does talk about customers'
12 accounts in the check cashing policy. But --

13 Q. Is it relevant -- I'm sorry, go ahead.

14 A. But Sheira does not have an account with us.
15 She's not a customer.

16 Q. Right. And it's not determinative in the
17 policy as to whether the check she presented was
18 counterfeit or fraudulent, is that true?

19 MR. MARDER: Objection, form.

20 A. Yes.

21 Q. Number three, the picture ID does not match.
22 We agreed that this is in the policy. We also agreed
23 that the only factor you could identify is that
24 Ms. Brown's hair was different in the two photographs,
25 is that true?

1 MR. MARDER: Objection, form.

2 A. Yes.

3 Q. I've highlighted this as being in the policy.
4 Number four, the font size and font type on Sheira
5 Brown's check, this is in the policy. We could not
6 identify how the font type is different but we agreed
7 that the font size is different in some places. Did I
8 accurately write that?

9 MR. MARDER: Objection, form.

10 A. Yes, and my name has two F's.

11 Q. I apologize, sir. I knew that. We will
12 highlight that as being in the policy. The written
13 amount on the check is shortened. We identified that
14 this is a not a factor determinative of fraud or
15 counterfeit, isn't that right?

16 MR. MARDER: Objection, form.

17 A. Yes.

18 Q. And number six, the check being a month old is
19 also not in the policy. The policy does discuss stale
20 dated checks but Ms. Brown's -- Ms. Brown's check was,
21 in fact, not stale dated, is that accurate?

22 MR. MARDER: Objection, form.

23 A. Yes.

24 Q. And finally, Sheira Brown is from Owings Mills
25 but, however, Sheira Brown being from Owings Mills is a

1 factor that is not in the policy, is that accurate?

2 MR. MARDER: Objection, form.

3 A. Correct.

4 Q. Thank you. I will mark this as Exhibit 7.

5 Mr. Claffee, we can agree that because Ms. Brown's check
6 was, in fact, valid there was a period of time in
7 which -- between March 19th of 2020 and March 20th of
8 2020 that Sheira -- that Harford Bank had wrongfully
9 confiscated Ms. Brown's check. Can we agree on that?

10 MR. MARDER: Objection, form.

11 A. No, our customer told us to hold the check.

12 Q. And that was bad information, wasn't it?

13 MR. MARDER: Objection, form.

14 A. It turned out to be that the check was valid,
15 if that's what you mean, yes.

16 Q. That is what I mean. And so --

17 A. I agree. You cut out. Say again -- say that
18 again.

19 Q. I'm sorry. I asked if you agree then that, in
20 fact, that was bad information.

21 MR. MARDER: Objection, form.

22 A. Yes.

23 Q. There was no legal justification as it turns
24 out to hold Ms. Brown's check?

25 MR. MARDER: Objection, form.

1 A. We held the check because our customer told us
2 to hold the check.

3 Q. And, in fact, Harford Bank is culpable for
4 exactly what they suspected Ms. Brown to be culpable
5 for, which is depriving Ms. Brown of property that was,
6 in fact, hers?

7 MR. MARDER: Objection, form.

8 A. When the check is presented to us and our
9 customer says to hold the check we're obligated to honor
10 our customer's request. That's who we're bound by.

11 Q. I have one last area for questions on this
12 before the next break. Are you familiar with Harford
13 Bank's diversity training policy?

14 A. We have a policy that we don't discriminate, if
15 that's what you mean.

16 Q. Right. And I'm referring to --

17 MR. MC MULLEN: We can pull up your report
18 on page 5, if we could.

19 (Document on screen)

20 Q. So what I'm identifying here, Mr. Claffee,
21 is -- tell me if I'm reading this correctly. It says
22 this is an assessment that you provided to the president
23 of Harford Bank. You're telling him what -- what
24 training we have or Harford Bank has at the time of your
25 report for new employees, is that right?

1 A. Yes, this is a list of classes that all
2 employees are required to take.

3 Q. Among them is a diversity in the workplace
4 training. Do you see that?

5 A. Yes, sir.

6 Q. And have you undertaken training?

7 A. I did when I first joined, yes.

8 Q. It's something that everyone at Harford Bank is
9 intended to do within 90 days of employment?

10 A. That's correct.

11 Q. I wanna scroll down a bit to -- So these were
12 the trainings in place at the time?

13 A. Uh-huh.

14 Q. And I understand this report to mean that
15 the -- the ones that follow below here are trainings
16 that were being recommended after this report was done,
17 is that right?

18 A. That's correct.

19 Q. And we can go through them. It looks like
20 Customer First Series, Creating Valuable Customer
21 Relationships. So -- and I believe there's another page
22 after this here trainings. So to summarize, there were,
23 it looks like, two customer facing trainings that were
24 implemented after this report was created, is this
25 right?

1 A. That's correct.

2 MR. MARDER: Objection, form.

3 A. Yes.

4 Q. Were these policies created as a reaction to
5 the incident on March 19th of 2020?

6 A. They were added to beef up our customer service
7 training.

8 Q. Why were they added after March 19th of 2020?

9 A. As a -- Part of our discussion that Mike and I
10 had with our HR director we felt that there could
11 absolutely be more customer service training in order to
12 handle difficult situations, we were in the middle of a
13 pandemic. There were a lot of reasons why we felt like
14 our customer facing employees needed additional customer
15 service training.

16 Q. Right.

17 MR. MC MULLEN: If we could take a short
18 break. And I don't think I have too many more questions
19 for you, sir. Just say five minutes.

20 THE WITNESS: Okay.

21 VIDEOGRAPHER: Okay, we're off the record.
22 The time is 12:58 p.m. eastern time.

23 (Recess from 12:58 to 1:06)

24 VIDEOGRAPHER: We are back on the record.
25 The time is 1:06 p.m. eastern time.

1 Q. Mr. Claffee, just one more area for inquiry.
2 We identified -- If I'm understanding your testimony we
3 identified that Gail O'Keefe called Nick Kapsis because
4 she believed that the check presented by Sheira Brown
5 was fraudulent, is that right?

6 A. That's correct.

7 Q. We also identified all of the reasons why Ms.
8 O'Keefe believed that, is that right?

9 MR. MARDER: Objection, form.

10 A. As far as we know, yes.

11 Q. Right. That is the seven factors that you and
12 I wrote -- wrote earlier, and that's, I think, Exhibit
13 7. Those were the seven factors we identified which led
14 to Gail O'Keefe calling Mr. Kapsis, is that right?

15 MR. MARDER: Objection, form.

16 A. Yes.

17 Q. There are no other factors we've identified
18 that caused the call from Ms. O'Keefe to Mr. Kapsis, is
19 that right?

20 MR. MARDER: Objection, form.

21 A. Yes.

22 Q. And it's fair to say that had Ms. O'Keefe not
23 identified these seven factors she would not have called
24 Mr. Kapsis?

25 MR. MARDER: Objection, form.

1 A. I can't answer that.

2 Q. Why can't you?

3 A. Well, I was not there.

4 Q. Well, presumably if Gail O'Keefe had identified
5 another reason to call Mr. Kapsis she would have told
6 you that?

7 MR. MARDER: Objection, form.

8 A. Yes.

9 Q. And you were asking her for the reasons why she
10 felt that the check was fraudulent, isn't that true?

11 A. Yes.

12 Q. And these are the seven reasons that she
13 provided you, is that right?

14 A. Yes.

15 Q. She provided you with no other reasons why she
16 would need to call Mr. Kapsis about the check, right?

17 A. No.

18 MR. MC MULLEN: All right. I have no
19 other questions for you, sir. Thank you for your
20 testimony this morning.

21 (1:08)

22 EXAMINATION

23 By Mr. Marder:

24 Q. I have a couple or three follow-up questions.
25 Mr. Claffee, do you have the same training as tellers in

1 identifying a red flag of check fraud?

2 A. I have not been through the teller training
3 myself, no.

4 Q. Are you an expert in identifying indicia of
5 fraud on checks?

6 A. I'm not an expert, no.

7 Q. And is it the intent of the policies of the
8 bank to identify all possible red flags of check fraud?

9 A. No.

10 MR. MARDER: I don't have any other
11 questions.

12 (1:09)

13 RE-EXAMINATION

14 By Mr. McMullen:

15 Q. Mr. Claffee, in discussing the policy of
16 Harford Bank that we've reviewed do you believe that
17 policy is sufficiently drafted?

18 MR. MARDER: Objection, form and
19 foundation.

20 A. I think there's always opportunities to improve
21 any policy process or procedure with new information,
22 sure.

23 Q. Right. You are aware of no policy performed by
24 Harford Bank -- well, let me rephrase that.

25 MR. MC MULLEN: You know what,

1 Mr. Claffee, I don't think I have any other questions
2 for you so I'll pass the witness.

3 THE WITNESS: Thank you.

4 MR. MARDER: No questions, we'll read.

5 VIDEOGRAPHER: Okay, we are off the
6 record. The time is 1:10 p.m. eastern time ending the
7 deposition.

8 (Proceedings concluded at 1:10 p.m.)
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1 CHANGES AND SIGNATURE

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1 I, BRIAN CLAFFEE, have read the foregoing deposition
2 and hereby affix my signature that same is true and
3 correct, except as noted above.
4

5 _____
6 BRIAN CLAFFEE
7

8 THE STATE OF _____)
9 COUNTY OF _____)
10

11 Before me, _____, on this day
12 personally appeared BRIAN CLAFFEE, known to me or proved
13 to me on the oath of _____ or through
14 _____ (description of identity card
15 or other document) to be the person whose name is
16 subscribed to the foregoing instrument and acknowledged
17 to me that he/she executed the same for the purpose and
18 consideration therein expressed.

19 Given under my hand and seal of office on this _____
20 day of _____, _____.
21

22 _____
23 NOTARY PUBLIC IN AND FOR

24 THE STATE OF _____
25

My Commission Expires: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MARYLAND
BALTIMORE DIVISION

SHEIRA BROWN,
Plaintiff,

§

§

§

v.

§

Case No. 1:21-cv-00096-JRR

§

HARFORD BANK,

§

Defendants.

§

REPORTER'S CERTIFICATE

ORAL VIDEOTAPED DEPOSITION OF BRIAN CLAFFEE

JANUARY 18, 2023

I, Vanessa P. Pompa, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, BRIAN CLAFFEE, was duly sworn and
that the transcript of the deposition is a true record
of the testimony given by the witness;

That the deposition transcript was duly submitted on
_____ to the witness or to the attorney for
the witness for examination, signature, and returned to
me by _____, 2023.

That pursuant to information given to the deposition
officer at the time said testimony was taken, the
following includes counsel for all parties of record:

1 Mr. Matthew McMullen,
 Attorney for Plaintiff;

2
3 Mr. Scott H. Marder
 Attorney for Defendant;

4 I further certify that I am neither counsel for,
5 related to, nor employed by any of the parties or
6 attorneys to the action in which this proceeding was
7 taken, and further that I am not financially or
8 otherwise interested in the outcome of the action.

9 Further certification requirements pursuant to Rule
10 30 of FRCP will be certified to after they have
11 occurred.

12 Certified to by me on this _____ day of

13 _____, _____.

14
15 /S/ Vanessa P. Pompa
16 Vanessa P. Pompa, CSR
 Texas CSR 2670
 Expiration: 01/31/24

FURTHER CERTIFICATION UNDER FRCP RULE 30

The original deposition was/was not returned to the deposition officer on _____.

If returned, the attached Changes and Signature page(s) contain(s) any changes and the reasons therefor.

If returned, the original deposition was delivered to Mr. Matthew McMullen, Custodial Attorney.

\$_____ is the deposition officer's charges to the Plaintiff for preparing the original deposition and any copies of exhibits;

The deposition was delivered in accordance with Rule 30, and a copy of this certificate, served on all parties shown herein, was filed with the Clerk.

Certified to by me on this _____ day of _____, _____.

/S/ Vanessa P. Pompa
Vanessa P. Pompa, CSR
Texas CSR 2670
Expiration: 01/31/24